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SUPERFUND: RIGHT-TO-KNOW AND HAZARDOUS WASTESITE CLEANUP

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HEARING

BEFORE THE

SUBCOMMITTEE ON
COMMERCE, TRANSPORTATION, AND TOURISM

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

ON

SUPERFUND PROVISIONS: COMMUNITY RIGHT-TO-KNOW AND CLEANUP OF ABANDONED HAZARDOUS WASTESITES LOCATED AT FEDERAL FACILITIES

DECEMBER 20, 1985

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SUPERFUND: RIGHT-TO-KNOW AND HAZARDOUS WASTESITE CLEANUP

FRIDAY, DECEMBER 20, 1985

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON COMMERCE,
TRANSPORTATION, AND TOURISM,
St. Paul, MN.

The subcommittee met, pursuant to notice, at 11:33 a.m., in room 15, State Capitol Building, St. Paul, MN, Hon. James J. Florio (chairman) presiding.

Mr. FLORIO. Kindly come to order.

I would like to welcome all in attendance to this subcommittee hearing. The Subcommittee on Commerce, Transportation, and Tourism is part of the full Energy and Commerce Committee.

I would like to express my appreciation to all who have made this hearing and these accommodations available to us. Congressman Sikorski just took me upstairs to take a look at your very lovely chambers.

As someone who came from a State legislature before I went to Congress, I am green with envy about the luxurious accommodations you have here in your State House for the legislature as contrasted with the accommodations that we have in my State. I think you have done well in having these types of facilities.

I am pleased to again officially welcome you to our subcommittee's first Superfund field hearing to be conducted in this State. Your Representatives, Congressman Sikorski and Congressman Vento, have long been active in Washington on hazardous waste issues in general, and the State can be proud of their contribution to the development of strong national policies to compel the cleanup of toxic wastes.

Your State itself has been in the forefront of recognition of the need to deal with this problem which is going to be the environmental issue of the balance of the decade at least.

Our hearing today will focus on two distinct aspects of the Superfund program: First, the community right-to-know provisions that were included in the House Superfund bill largely because of the leadership of Mr. Sikorski and, second, the cleanup of abandoned hazardous waste sites located at Federal facilities. Mr. Vento has been in the lead in Washington in calling our attention to the need to address that problem.

Minnesota does not have a community right-to-know law of its own, I understand, although some attempts have been made to pass

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such a bill in the State legislature. It is my understanding that those opposing the bill argue that the State should not take the lead in this area, for fear that the State's industries might move elsewhere in response to these new requirements. That, it seems to me, is more than a strong argument for the need for national uniformity in our environmental laws so we don't have economics operating at cross purposes with appropriate environmental protection, including the need for a national uniform community right-to-know standard.

As for the issue of cleaning up Federal facilities, we have just returned from a tour of the Twin Cities Army Ammunition Plant, and we are, of course, aware of the controversy that has surrounded that facility. In my State we have a number of military facilities, one of which is included on the Superfund list. A number of other ones have become extremely controversial environmental problems, so because of my own experiences I can share with Congressman Sikorski and Congressman Vento their concern, for the need to deal with that type of a problem.

Hopefully our witnesses will be able to shed some light on why it has taken such a long period of time to get action undertaken there, why the preliminary studies have been the major focus of attention, and why it has cost a rather substantial amount of money to get us to the point that we are at present.

People of New Brighton and the St. Anthony area deserve a clear and rapid response to their understandable concern about the stalemate and the difficulties that have thus far paralyzed absolute cleanup activities in the area, and hopefully we will get some sense of direction, some sense of information, about these types of questions.

Let me at this point recognize the gentleman who is a member of my subcommittee, and in the relatively short period of time that he has been in Washington, has been one of the stars on environmental areas, Congressman Sikorski.

Mr. SIKORSKI. Thank you, Mr. Chairman. It has been indeed a privilege and an honor to serve with you. I thank you for your comments and for your unwavering commitment to the protection of our children and our children's children from the threat of toxic chemicals.

Love Canal and Times Beach and Reilly Tar are only the tip of the toxic iceberg. At thousands of waste sites across the country, poisonous chemicals are seeping into our land, contaminating our water, and fouling our air. In 1980, due in large measure to your perseverance, Congress enacted the Superfund Program, and you were the chief proponent of it. Its purpose was to clean up the Nation's worst abandoned sites. Five years later the report card is unsatisfactory.

Every year we produce 90 billion gallons of hazardous waste, more than six 55-gallon barrels for every man, woman, and child, and most of it is not properly disposed of.

Twenty-three thousand waste sites across the country at least—some say 300,000—are drowning in toxic sludge.

There are over 850 National Priorities List sites: 38 of them in Minnesota, 10 in the sixth district.

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More than $1.6 billion has been expended, yet not one of these National Priorities List sites has been completely and adequately cleaned up.

Confronted with these dismal statistics, Congress moved this year to correct the problems with Superfund. I introduced a bill that involved citizens suits and schedules and standards and a cleanup program for leaking underground storage tanks, the LUST program, and strong provisions in Federal sites, and community right-to-know.

I joined with you in a similar measure, and we fought a very lonely fight in subcommittee and in full Energy and Commerce Committee for a tough and expanded Superfund Program.

I am now happy that the bill enacted by the House last week incorporates essential components of our Superfund initiative.

Two points need highlighting: community right-to-know and the federally owned hazardous waste site issue.

Just 1 year ago, 1 year ago and 2 weeks, the worst chemical disaster in history left over 2,000 people dead and over 200,000 people injured in India, a leaky storage tank—we all saw the pictures from the newsreels and the news magazines—early morning emergency, and as one journalist put it, "* * * a pale of white smoke that spread with the wind poisoning human beings as if they were insects."

That was in India, but an American company was operating that facility, a replica of an American facility. And in America today, 60,000 chemicals are produced in over 6,000 communities, and last year 5,700 toxic chemical accidents occurred. Those releases and those accidents were not the dramatic Bhopal-like kind of releases. They were others that even more endangered our citizens.

The effect of these chemicals—the dioxin, PCB's, asbestos, benzenes—is often not clear overnight. The corpses are not in far-distant country streets. The corpses are waiting in America's hospitals and hospices, and they come from American playgrounds, they come from American blue collar neighborhoods and factories, they come from American suburban homes that are built in areas that were the dumping grounds 20 and 30 years ago for industries.

Now despite 20 years of environmental regulation of toxic substances, thousands of pages of data and cases of brain cancer, liver cancer, and mutations and birth defects, we still cannot answer basic questions about even the most common and deadly toxic chemicals.

Millions of Americans in thousands of neighborhoods exposed to toxic chemicals have a simple, a fundamental right to know about what chemicals, toxic chemicals, are being released into their environment hour after hour, day after day, year after year. The House bill, through our efforts, guarantees that Americans will be provided with this information.

The bill also requires that federally owned hazardous waste sites meet the same standards as privately owned sites. What is good for the goose is good for the gander. Before, Federal facilities had free rein: No standards, no deadlines, no oversight. They were only responsible for cleaning up onsite contamination leaving EPA and local communities and local pollution agencies to cleanup the mess when it leaked offsite.

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This morning we toured—I was pleased to tour with our distinguished and respected colleague who has been in the forefront of a host of good banking and housing legislation but also consistently from his service here in the State House to Washington in the forefront of environmental issues, Bruce Vento—a site that is in his district that affects people in his district and my district and Martin Sabo's district, the Twin Cities Army Ammunition Plant. The city of New Brighton spent millions of dollars cleaning up its drinking water, contaminated as a result of the pollution from this plant. The contamination is spreading. The people of St. Anthony in my district and Martin Sabo's district live with chronic cancer-causing chemicals in their water that increase daily and the threat of having to spend millions of dollars to ensure a simple necessity of life, clean water.

The new House bill helps correct these problems, but only partially. It adds a significant new enforcement tool: Citizen suits to force cleanup as well. And that's good news. The bad news is the bill fails to go far enough. It does not contain the Vento amendment, allowing the fund to reimburse municipalities for new costs in providing or acquiring alternative water supplies where a Federal agency is a responsible party.

Mr. Chairman, our work is not done. The House and Senate have both passed bills. The two bodies will go to conference early next year, and it is in this context that we hold this important hearing with the expert opinions of the panelists that are coming here to advise us on these two primary issues. Superfund can be improved.

Thank you all for your testimony today, and thank you, Mr. Chairman, for coming here.

I presented the Chairman with a gift that is close to the hearts of the people from Minnesota. I gave him a pair of earmuffs that I know he will put to good use, at least in the hours before he goes back.

Thank you.

Mr. FLORIO. Thank you very much. Perhaps to reciprocate, let me provide just some clarification for those who are not intimately involved in all the jargon. When my colleague Gerry says that he has been supporting the LUST program in Washington, it is the program dealing with leaking underground storage tanks, so that we have full disclosure.

Let me now recognize a good close friend, someone whom I have served in the Congress with for a long period of time, someone who is a highly esteemed legislator and a particularly devoted advocate of the people that he represents and the causes that are of concern to them, Congressman Vento.

STATEMENT OF BRUCE F. VENTO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. VENTO. Well, thank you very much, Chairman Florio. It is a pleasure to welcome you to St. Paul, to Lake Wobegone, and we will get you a copy of that. I do not know if we can get it signed or not, but it is a pleasure for you to be here, really an honor to have you here, especially at a time that is critical to the policy considerations and the reenactment of the Superfund law, and I am hon-

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ored to be included on the panel today, not being a member of the Committee, and being asked to sit with you on these issues.

Of course this law is important. I think that those in attendance at the hearing ought to know that Congressman Florio has been the prime mover. He is the House sponsor of the 1980 law, the Superfund law. He has done landmark work in this area and certainly will be part of the final developments, so it is a critical time to share with him the types of special problems that we have, and it is a credit to you during this time when we are working and the end of working 18-hour days that you are willing to come here and to look at our problems, and I think the reason that you are successful in what you do is because of that type of intensity and sincere interest.

I also wanted to commend my colleague, Congressman Gerry Sikorski, a good friend, and a very effective member working on the Energy and Commerce Committee. Indeed he has become a star, not just on that committee, but I think in our State in dealing with environmental issues from acid rain and now right-to-know and dealing really with the tough issues that we face in Congress, and I am proud to serve with both of you and to be here today as we deal with these problems.

Earlier today, as was noted, we toured the Twin Cities Arsenal plant and really saw the work that they are trying to do there, and I think also in the same context we saw the extensive effort, the studies, and the investment that is being made by the Department of Defense.

The arsenal is, of course, a DOD facility. It was identified as a primary source for ground water contamination. Unfortunately, the Army has failed to move promptly enough to work with local officials, partly because of the law and partly because of not enough law. The Army has never provided meaningful financial assistance to the residents outside the reservation. They, in fact, have confined all of their activities almost solely to the military land area.

Acting to protect the public health, the city of New Brighton has spent over $4 million already, and I think they are going to testify today that that figure looks more like $11 million, and in trying to provide just a permanent new supply for safe, clean drinking water. We are not talking about cleaning the aquifer. We are just trying to talk about meeting health and human needs with regard to water.

As you know, I introduced a floor amendment—the same amendment that was introduced in the Senate, incidentally, and which was adopted in the Senate—and we debated it on the floor. I think we are better because we debated it. I would feel a lot better if I had won on the floor, but I think we are better for having brought the problem to the forefront and trying to come to grips with it as opposed to assuming that everyone understood and instantly would be for that particular idea.

Clearly there are some difficulties that we have to address in the context of this issue and the context of how we legislate in that area.

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I am hopeful that, first of all, that the language with regard to the Department of Defense facilities and the language with regard to Superfund can in fact address this particular problem.

I am pleased the new Superfund legislation does contain the new responsibility for DOD facilities.

I am aware of at least 33 sites, and a constituent just came up to me and reminded me of one in Tucson, AZ, Mo Udall's district, and New Brighton, incidentally, is not even on that list, and yet we know it belongs.

There were 33 different sites that have similar problems with DOD or Federal facilities where the problem of toxic waste and ground water contamination is occurring.

Last year DOD spent about $329 million in clean-up on some of these sites. No one is certain how many more DOD sites will be added to the list in the coming year. As I have indicated, it is not a full and complete list.

In addition, various sites under the jurisdiction of DOE and other Federal agencies involve serious ground water contamination.

Mr. Chairman, how can we expect the EPA to be successful in cleaning up privately owned hazardous waste sites when the Federal Government itself drags its feet in cleaning up its own sites?

Clearly it is imperative that the Federal Government move promptly to get its own house in order and begin cleaning up hazardous wastes for which it is responsible.

I know that you are committed to this goal and will work to see that the Federal Government lives up to its obligations under the new Superfund law.

The citizens we represent are just as affected whether the source of toxic pollutants is private or public.

Clearly the promise of Superfund is to get the cleanup job done without the endless debate and finger-pointing about who is responsible.

The promise of Superfund should be emulated by the National Government, not frustrated.

Mr. Chairman, it is time the Army stops its legal furlough and takes command of the battle against toxic wastes.

Thank you, Mr. Chairman.

[Mr. Vento's prepared statement follows:]

STATEMENT OF CONGRESSMAN BRUCE F. VENTO

Chairman Florio, I want to thank you for holding this hearing today here in Minnesota to examine the problem of toxic and hazardous wastes in our community and to take a closer look at the impact of the "Superfund" law on our State. As the original author of the "Superfund" law in 1980, you have been the primary catalyst for action on this serious problem. Because of your efforts, the House last week passed a new five-year reauthorization of the Superfund which strengthens the law.

I also want to commend my friend and colleague, Congressman Gerry Sikorski, for his effective work on this issue. Thanks to his efforts and those of Congressman Bob Edgar, the House adopted an amendment providing for a strong community "right to know" law so that the citizens of our communities will not be in the dark about toxic and hazardous threats which exist in their areas.

Earlier today, we toured the Twin Cities Arsenal in Arden Hills. As you know, this facility is responsible for a very serious groundwater contamination problem which has affected the residents of nearby New Brighton. The city of New Brighton learned five years ago that its water supply, which is derived from wells that are part of an extensive aquifer system, was contaminated with triclorethylene [TCE]

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and a variety of heavy metals and other contaminants. This contamination made New Brighton's water unfit for human consumption.

The arsenal (a Department of Defense facility) was subsequently identified as the primary source for this groundwater contamination. Unfortunately, the Army failed to move promptly enough to work with local officials in establishing a permanent alternative water supply. Indeed, the Army has never provided any meaningful financial assistance to the residents of New Brighton for this purpose. They, in fact, have confined all of their activities, investigation and remediation, to the military land area.

Acting to protect the public health, the city of New Brighton has spent nearly $4 million over the part five years to drill new wells to provide a permanent new supply of safe, clean drinking water. These expenditures have created a severe financial hardship for the city and its taxpayers.

As you know, I introduced a floor amendment during the consideration of the Superfund bill, which would have allowed the Administration of the E.P.A. to reimburse the city for its expenses in drilling these new wells. Although this amendment was not adopted, there may yet be an opportunity in conference with the Senate to make certain funds available for this purpose. The objective of my amendment was simply to expedite the process of satisfying the legitimate claims of municipalities, such as New Brighton, which have acted in good faith to remedy a problem caused largely, if not wholly, by an agency of the Federal Government (such as the Twin Cities Arsenal in this instance). I'm pleased that the new Superfund legislation recently passed by the House includes a section which directly addresses the issue of Federal responsibility for federally-owned hazardous waste sites. Hopefully, other communities across the country in the future can avoid the lengthy difficulties and expenses which New Brighton's residents have had to bear when federally-owned facilities cause pollution problems that affect them.

I am aware of at least 33 sites operated by the Department of Defense which involve hazardous wastes and groundwater contamination. The Department of Defense expects to spend about $329 million in fiscal year 1986 to clean up some of these sites. No one is certain how many more D.O.D. sites will be added to that list in the coming year. In addition, various sites under the jurisdiction of the Department of Energy [D.O.E.] and other Federal agencies involve groundwater contamination or other types of contamination.

Mr. Chairman, how can we expect the E.P.A. to be sucessful in cleaning up privately-owned hazardous waste sites when the Federal Government itself is dragging its feet in cleaning up its own sites? Clearly, it is imperative that the Federal Government move promptly to get its own house in order and begin cleaning up hazardous wastes for which it is responsible. I know that you are committed to this goal and will work to see that the Federal Government lives up to its obligations under the new Superfund law. The citizens we represent are just as affected, whether the source of toxic pollutants is private or public. Clearly, the promise of Superfund is to get the clean up job done without endless debate and finger pointing about who is responsible. The promise of Superfund should be emulated by the National Government—not frustrated. Mr. Chairman, it's time the Army stops its legal furlough and takes command of the battle against toxic wastes.

Mr. FLORIO. Let us move to our two panels. The first panel, of course, will be addressing the questions on community right-to-know, the other panel will be addressing the issues with regard to the interaction between governmental facilities, primarily military facilities, and Superfund in general, and the jurisdictional confusion that we hope to clarify as a result of some modifications in the law.

Let me ask our first panel to come forward. The panel is made up of the Honorable Darby Nelson, State Representative, and Peggy Ladner, Clean Water Action Project.

We welcome you to the committee.

As with all of our witnesses, their statements will be made a part of the record in their entirety, and the witnesses may feel free to proceed in a summary fashion if they see fit to do so.

Mr. Nelson, we will be pleased to hear from you.

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STATEMENTS OF DARBY NELSON, MINNESOTA STATE REPRESENTATIVE; AND PEGGY LADNER, MIDWEST DIRECTOR, CLEAN WATER ACTION PROJECT

Mr. NELSON. Thank you, Mr. Chairman, and just welcome to Minnesota.

I am very pleased that you would take the time, as mentioned earlier, out of a very busy schedule in Washington to come to hear our concerns about a couple of very critical issues dealing with the Superfund.

I want to make the bulk of my remarks, as suggested, in strong support of community right-to-know legislation, and specifically in support of the notion that the Federal Government ought to be getting involved, and then if you will indulge me just a brief personal comment in general about the situation that we are in in terms of the cleanup.

About 100 years ago or so we learned that cholera was passed on through contaminated drinking water contaminated with sewage. And armed with that information, a citizen could, by learning where the slop buckets and chamber pots were emptied, go to take his family's drinking water from an upstream source and thereby exert some independent choice and prevent contamination and the development of cholera on the part of his family members.

Sixty years ago, if you did not like the health risks associated with living next to stable flies and the smell or rotting manure, you did not build your house on a lot adjacent to the town horse barn. Fortunately or not, the world has changed an awful lot since the days of cholera and horse barns. In those days, the environmental hazards, once understood, were locatable and identifiable for all to see and for all to respond accordingly.

Today, an incredible number of new chemicals are being produced. They are being sold. They are being stored. They are being shipped. They are being disposed of. And many of those, as you well know, have a great potential to cause acute or chronic disease or birth defects in people. And unfortunately the toxic wastes, the toxic chemicals that we are talking about today are not nearly as identifiable as human fecal waste disposal and horse manure. And, as a result, people are simply unable in 1985 to properly make those kinds of decisions about where they want to live, where they want to recreate relative to potential health risks, and I guess the fundamental role of government in my mind, and I would hope in others, must be to do those necessary things for people that they are simply unable to do for themselves.

Our problem today, fundamentally, is to overcome the inertia in our institutions and our traditions that really developed in the horse barn era, in which the government role could be perhaps significantly different than it is today.

Let me just very briefly summarize why I think a community ought to have the right to know about the location and certainly the emissions of carcinogens, mutagens, and things of that like in its midst.

Certainly relative to community emergency planning it is incredibly important that those locations be known and understood. It is absolutely essential for firefighters, both for their personal safety

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as well as for the safety of folks living in the immediate neighborhoods where these materials are being stored and released, that those fundamental bits of information be provided.

Third, we simply must provide people with information that may, in fact, impact their chances of developing cancer, producing children with birth defects and other health problems. The issue, I think, is absolutely fundamental and simple. People want to have maximum direct control over their own lives. A community's right-to-know regarding placement and emission of potentially hazardous materials is a logical and I think important extension of consumer labeling, cigarette health warnings, workers' right-to-know, and the like. A person ought to have the right to intelligent, educated, personal choice about the relative degree of risk he or she finds personally acceptable.

Community right-to-know in addition to that I think can be a source of incredibly valuable long-term epidemiological data on environmental risk factors.

We really do not have time this morning for me to develop that fully. Suffice it to say that right now we are conducting a long-term sort of natural experiment on the impact of hazardous chemical exposure on human health. No one in our society has spent an entire lifetime being exposed to the kinds of things that we are in the 1980s and have in recent decades.

The sad thing is that we simply are not organized right now to collect the data on how this natural experiment turns out. What we do know about the geography of cancer reveals that incidence rates are indeed higher for industrialized areas and urban areas, but we simply cannot, have not been able to isolate many of the details of the specific relationships.

Community right-to-know could turn out to be an absolute epidemiological gold mine of incredibly valuable health-risk data over the long haul of time.

I suppose if the community right-to-know is such an important issue and we believe so strongly in placing decisionmaking power in the hands closest to a given situation that the response might be that the issue ought to be left up to individual States.

We do not have a community right-to-know bill or law in Minnesota. I was a coauthor on such a bill in the 1984 session. It did not pass, and I think our experience with that bill is in part some very strong argument for Federal action on this issue.

The measure that we brought before the House Environment Committee was opposed by business interests partly because it would create extra paperwork. The opponents also felt that trade secret information would be compromised.

These two arguments in Minnesota become added to a broader business climate argument, and the reasoning basically went as follows: if you impose those sorts of requirements, costly requirements, on Minnesota business, what you may in fact do is add one more strong incentive for businesses to simply feel they have to leave the State.

It was exactly that argument that powered the 1985 weakening of Minnesota's State Superfund law. The main issue in that action was the perception that the original State Superfund law created the perception that Minnesota had an antibusiness climate. Such

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arguments do indeed have an impact on State legislative action, and in this instance powered the, I believe, unfortunate and otherwise unjustified weakening of our own State Superfund law.

It seems to me that if the business climate arguments are valid, then business ought to join us in asking for and demanding a Federal community right-to-know law and as a result avoid any potential islands of negative or bad business climate around the country.

In conclusion, let me turn briefly to the issue of clean up of hazardous waste sites around the country. You are certainly going to hear in the next panel some specific data from others on Minnesota's known hazardous waste sites.

First I would like to commend you, Chairman Florio, Representative Sikorski, and certainly Congressman Vento on the efforts that you have put forth to try to strengthen the Federal Superfund initiatives. However, I personally cannot comprehend the lack of progress in 5 years. The whole issue is an incredible indictment, I think, of the leadership of the President, perhaps the Senate, perhaps others in the House, certainly the EPA. You already have answered my question. How many of those sites have been fully and totally cleaned up in 5 years? And I think Congressman Sikorski gave us the answer that there were none.

The interminable delay results in toxic plumes moving deeper and wider into the groundwater. The problem simply gets worse hourly. The ultimate costs of cleanup get bigger hourly. The ultimate costs in human illness get bigger hourly. The ultimate costs in foregone future water resources get bigger every hour. The ultimate costs in future required water treatment get bigger every hour.

I simply ask the President and others what conceivable gain, what conceivable benefit can there be for perpetuating the slow, snail's pace effort at cleanup, at underfunded levels. I commend the House for the strength of the bill that you have just passed. I would hope that you would be able to further strengthen it and hang on to the gains when it comes to the conference committee.

If the Soviet Union had secretly conspired to deposit these thousands of leaking hazardous waste sites around the country to insidiously damage our groundwater and the health of our citizens, such action would clearly have been labeled the most heinous act of biological warfare. There are times I wish the Russians had done it, because if the Russians had done it, perhaps the cleanup would be considered part of the national defense, would come under the defense budget, and perhaps we would not have had to have waited for 5 years and see so little have been accomplished if that had been the case. Federal inaction has simply dumbfounded me.

Thank you very much for the opportunity to be here and to express some comments, and I would be happy to answer any questions that the panel may have.

Mr. FLORIO. Thank you very much.

[The prepared statement of Mr. Nelson follows:]

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TESTIMONY OF STATE REPRESENTATIVE DARBY NELSON

TO THE U.S. HOUSE SUBCOMMITTEE ON

COMMERCE, TRANSPORTATION AND TOURISM

Minnesota State Capitol

December 20, 1985

Good morning, Mr. Chairman.

I am pleased that you have come to Minnesota to get public comment on two such important issues as hazardous waste cleanup and the community right-to-know.

My name is Darby Nelson, and I represent District 49A in the Minnesota House of Representatives. I have worked with both of these issues at the state level and appreciate the opportunity to address you on these subjects.

Most of my remarks will be addressed in strong support of community right-to-know legislation in general, and the appropriateness of federal legislation to address this need. I will make brief comments as well on the need for a well funded, redirected and forceful federal effort to clean up the nation's hazardous waste sites.

About 100 years ago we learned that cholera was spread through exposure to drinking water contaminated with sewage. Armed with that information, a citizen could take direct responsibility for his own health and well being. By noting where the slop buckets and chamber pots were being emptied and taking his family's drinking water from an upstream source, cholera could be avoided.

Sixty years ago, if you didn't like living in the midst of stable flies and the odors of ripening manure you didn't build your house on the lot next to the town's horse stable.

Fortunately or not, the world has changed a lot from the days of cholera and horse barns -- when the environmental hazards, once understood, were locatable and identifiable for all to see and respond accordingly.

Today, an incredible number of new chemicals are being produced, sold, stored, disposed of. Many have great potential to cause acute or chronic disease or birth defects in people. Unfortunately, toxic levels of these chemicals are not detectable like horse manure and human fecal wastes.

As a result, people are simply unable to properly make the kinds of decisions about where they want to live and recreate relative to potential health risks.

A role of government must be to do those necessary things for people that they cannot do for themselves.

Our problem today is to overcome the inertia in our institutions and traditions that developed in the horse barn era, in which the government role could be rather different than is required today in the era of chemical toxins.

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Let me briefly summarize why I think a community ought to have the right to know about the location of carcinogens, mutagens and such in its midst.

1. It's essential knowledge for proper community emergency planning.

2. It's essential knowledge for firefighters both for their personal protection and for the protection of neighborhoods adjacent to sites storing hazardous wastes.

3. We simply must provide people with information that may, in fact, impact their chances of developing cancer, producing children with birth defects, and other health problems. The issue is fundamental and simple. People want to have maximum direct control over their own lives. A community's right-to-know regarding placement of hazardous materials is a logical and important extension of consumer labeling, cigarette health warnings, workers' right-to-know, and the like. A person ought to have the right to intelligent, educated personal choice about the relative degree of risk he or she finds personally acceptable.

4. Community right-to-know can be the source of incredibly valuable long term epidemiological data on environmental risk factors.

There is inadequate time to develop this argument here. Suffice it to say that we are conducting, right now, a sort of natural experiment on the impact of hazardous chemical exposure on human health. No one in our society has spent an entire lifetime exposed to the variety and quantity of toxic materials we currently experience in this country. The sad thing is, other than in a very crude sense, we are not organized to collect the data on how this "experiment" turns out over time.

What we do know about the geography of cancer reveals that incidence rates are higher for many types of cancer in our industrialized, urban areas. But we can't isolate many of the details of specific relationships of cause and effect.

Community right-to-know could turn out to be an absolute epidemiological gold mine of incredibly valuable health risk data over the long haul of time.

I suppose one response is that if community right-to-know is so important, and we believe in putting decisions as close to the home folks as we can, perhaps it ought to be left up to the individual states.

We do not have a community right-to-know statute in Minnesota. I was a co-author on just such a bill in the 1984 session, but it did not pass. Our experience with that bill makes a very strong argument for federal action on the issue.

The measure was opposed by business interests, partly because it would create extra paperwork. Opponents also argued that trade secret information would be compromised.

These two arguments in Minnesota became part of a broader business climate argument. The reasoning went that if Minnesota businesses were forced to comply with such a law, they would be put at a competitive disadvantage with companies outside Minnesota not facing such requirements. The result might be for this and other parallel "anti-business climate" arguments that businesses could find themselves forced to move to another state.

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It was exactly that argument that powered the 1985 weakening of Minnesota's State Superfund law. The main issue in that action was the perception that the original State Superfund law created the perception that Minnesota had an anti-business climate.

Such arguments do have an effect on legislatures' actions on issues like this, as evidenced by last year's unfortunate and otherwise unjustified weakening of our State Superfund law.

If the state business climate arguments are valid, then business ought to join us in support of a federal community right-to-know law. Then there would be no bad business climate islands around the country.

In conclusion, let me turn briefly to the issue of cleanup of hazardous waste sites around the country. You will shortly hear from others specific data on Minnesota's known hazardous waste sites. But I ask your indulgence of a personal comment.

I personally cannot comprehend what has gone on in Washington in the last five years relative to cleanup. The whole issue is an incredible indictment of the President, the Congress, and the EPA. How many sites have been actually totally cleaned up? The interminable delay results in the toxic plumes moving deeper and wider into the groundwater. The problem gets worse hourly.

The ultimate costs of cleanup get bigger every hour. The ultimate costs in human illness get bigger every hour. The ultimate costs in foregone future water resources get bigger every hour. The ultimate costs in future required water treatment get bigger every hour.

I ask you and your colleagues, the President, the EPA -- what conceivable gain or benefit results from these delays and inadequate funding levels? If the Soviet Union had secretly conspired to place these thousands of toxic sites around the country to slowly contaminate our water and to insidiously damage our people's health, such action would have been labeled the most heinous act of biological warfare.

There are times I wish the Russians had done it. Perhaps cleanup would then be considered a part of the national defense with access to the military budget. I don't think we'd be five years into a program with so little to show for it if such had been the case.

Federal inaction simply dumbfounds me. I hope you will hear the comments of the second panel on this issue.

Thank you.

Darby Nelson
Minnesota State Representative
District 49A

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Mr. FLORIO. Ms. Ladner.

STATEMENT OF PEGGY LADNER

Ms. LADNER. Thank you.

We also appreciate the opportunity to address Chairman Florio and the Committee.

I am the Midwest Director for Clean Water Action Project, and we have worked since 1971 on Federal legislation which would result in water that is fishable, swimmable, and drinkable. Since 1982 we have worked as part of the National Campaign Against Toxic Hazards both in Washington and here in Minnesota to find a comprehensive solution to the threats by the use of toxic substances.

Here in Minnesota environmental, labor, and community groups won worker right-to-know but lost the fight for community right-to-know, as Mr. Darby pointed out. We passed a model Superfund bill but lost the personal injury liability provisions in a subsequent session. We won a victim's compensation program.

In all those battles, the supporters maintained that people had the right to be safe from exposure to hazardous substances and to be compensated if they were injured.

The opponents said that being responsible for that safety or injury was too expensive and that they would have to leave Minnesota if forced to do so. That is a powerful statement, and as it has already been pointed out, it convinced a lot of legislators that safety from toxics was not worth it.

Their arguments were not even true in many cases. We knew they would not be able to get environmental impairment liability insurance no matter where they went, and we said so.

We knew Minnesota's tough liability standards for existing sites would follow businesses to Texas or California, and we said so, but it did not matter. The perception was created by business that Minnesota's regulations were driving them to other States, and so the law was changed. That tactic has been used in North Carolina, in New Jersey, in Pennsylvania, Ohio, and many other States.

We cannot solve this problem in Minnesota. It has to come from Washington. Congress must put an end to State shopping, or at least the threat of it, by polluters.

It is not appropriate for States to have to decide such crucial public policies under the threat of corporate abandonment.

A comprehensive Federal program is the only way to assure real progress in solving the problem. That comprehensive solution should focus on cleanup, enforcement, right-to-know, and strategies for reduction of the hazardous waste stream in this country.

The recently passed House bill contains language that will begin to get the job done in terms of cleanup. Standards and schedules for cleanup as well as $10 billion in funding and a provision for citizen suits is a vast improvement over the current program. Now perhaps Minnesota's 100 Superfund sites, some of which were discovered 6 years ago, will see action. Perhaps the work stopped by EPA at the Le Hillier site in Minnesota will be reauthorized.

Part of ensuring that new sites are not created is having effective enforcement of existing environmental laws. If we are success-

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ful in the next few weeks, the major Federal laws dealing with toxics will all have been strengthened this year, but nothing will have been changed if these laws are not enforced.

A common tactic for back-door deregulation is to cut agency staff or support services for mandated programs. That must not happen to programs which might make the difference between whether or not people are poisoned by toxic exposure.

Passage of a strong community right-to-know program is the first step towards long-term solutions. We support a Federal program which provides strong basic standards while still allowing State and local authority to enact more stringent requirements if they so desire. I think that is a very important point considering what the Reagan administration has done.

There would be some immediate positive impacts to communities if right-to-know is assured. Emergency personnel could begin to plan for fire and other emergencies which might require evacuation, special equipment, et cetera.

Other benefits will stem from community residents having access to information which will help hold business accountable for the way they handle hazards. This might result in more participation by residents and local policy might result in people choosing to relocate. Under any circumstance they will have the ability to make an informed choice.

Enforcement would also be enhanced because accidental emissions could be more easily traced to the point of origin if an inventory for the area were available. This would result in faster clean-up of spills and less risk of exposure to residents.

One of the most important benefits of a right-to-know law will take much longer to realize but is connected directly to source reduction as the final piece in solving the toxic puzzle.

I will also mention the epidemiological studies and will not go into that in great detail because Darby Nelson covered that I think extensively.

I think the final point is that those studies, as they yield results and as more links are made between cancer and the chemical, generators and users will have some choices: Either to accept almost certain liability for any exposure to their hazardous material or find ways to reduce the hazardous waste stream and, therefore, their liability. We believe responsible business people will certainly choose the latter.

A recent study by the Library of Congress showed that 75 percent of the U.S. population lives in proximity of a chemical plant. In the Twin Cities metro area there are 111 manufacturing establishments as classified by Standard Industrial Code 28, chemicals and allied products. This number does not even include petroleum industries, metal finishers, and electronic manufacturers or service establishments that have large chemical inventories. That is a lot of potential risk.

Here in front of me are 100,000 or more signatures of Minnesotans who want to reduce that risk. Clean Water Action has gathered these signatures from people all over the State of Minnesota who want the risk reduced, and we want to very much commend Chairman Florio as well as Representative Sikorski for their efforts on strong right-to-know legislation. We urge the Congress to adopt

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this legislation, and I think you can clearly see people care about it.

Thank you.

[The prepared statement of Ms. Ladner follows:]

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STATEMENT OF PEGGY LADNER

My name is Peggy Ladner. I am the Midwest Director of the Clean Water Action Project. We have worked since 1971 on federal legislation which would result in water that is fishable, swimmable and drinkable. Since 1982 we have worked as part of the National Campaign Against Toxic Hazards, both in Washington and here in Minnesota, to find a comprehensive solution to the threats posed by the use of toxic substances.

Here in Minnesota, environmental, labor, and community groups won worker right-to-know but lost the fight for community right-to-know. We passed a model superfund bill but lost the personal injury liability provisions in a subsequent session. We won a victim's compensation program. In all those battles, the supporters maintained that people had the right to be safe from exposure to hazardous substances and to be compensated if they were injured. The opponents said that being responsible for that safety or injury was too expensive and that they would have to leave Minnesota if forced to do so. That is a powerful statement and convinced a lot of legislators that safety from toxics wasn't worth it. Their arguments weren't even true in some cases - we knew they wouldn't be able to get Environmental Impairment Liability Insurance no matter where they went. And we said so. We knew Minnesota's tough liability for

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existing sites would follow businesses to Texas or California, and we said so. But it didn't matter. The perception was created by business that Minnesota's regulations were driving them to other states. And so the law was changed. That tactic has been used in North Carolina, in New Jersey, in Pennsylvania, Ohio and many more states.

We can't solve this problem in Minnesota. It has to come from Washington. Congress must put an end to state shopping, or the threat of it, by polluters. It is not OK for people in New Jersey to have the right-to-know while people in Minnesota do not. It's not OK for our neighbors in Wisconsin to go uncompensated for medical expenses due to toxic exposure while Minnesotans may apply to the victim's compensation fund. Most importantly, it is not appropriate for states to have to decide such crucial public policies under the threat of corporate abandonment. A comprehensive federal program is the only way to assure real progress in solving the problem. That comprehensive solution should focus on cleanup, enforcement, right-to-know and strategies for reduction of the hazardous waste stream in this country.

The recently passed House bill contains language that will begin to get the job done in terms of cleanup. Standards and schedules for cleanup as well as 10 billion dollars in funding and a provision for citizen suits is a vast improvement over the current program. Now perhaps Minnesota's 100 superfund sites, some of which were

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discovered six years ago, will see action. Perhaps the work stopped by EPA at the Le Hillier site will be reauthorized.

Part of ensuring that new sites are not created is having effective enforcement of existing environmental laws. If we are successful in the next few weeks, the major federal laws dealing with toxics will have all been strengthened this year, but nothing will have changed if these laws are not enforced. A common tactic for back door deregulation is to cut agency staff or support services for mandated programs. That must not happen to programs which might make the difference between whether or not people are poisoned by toxic exposure.

Passage of a strong community right-to-know program is the first step towards the long term solution. We support a federal program which provides strong basic standards while still allowing state and local authority to enact more stringent requirements if they so desire.

There would be some immediate positive impacts to communities if right-to-know is assured. Emergency personnel could begin to plan for fire or other emergencies which might require evacuation, special equipment or techniques for firefighting and specialized emergency medical services. Now, while they may have had some training in dealing with hazardous substances, they don't necessarily know when its appropriate to use those skills.

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Other benefits will stem from community residents having access to information which will help hold businesses accountable for the way they handle hazards. This might result in more participation by residents in local policy making or it might result in people choosing to relocate. Under any circumstance they will have the ability to make an informed choice. Enforcement would also be enhanced because accidental emissions could be more easily traced to the point of origin if an inventory for the area were available. This would result in faster cleanup of spills and less risk of exposure to residents. One of the most important benefits of a right-to-know law will take much longer to realize but is connected directly to source reduction as the final piece in solving the toxic puzzle.

Establishing the links between exposure to toxic materials and acute and chronic illness is, at best, extremely difficult. The information which will be collected under right-to-know will not provide the information needed to directly make the link but it will begin to build the data base from which important epidemiological studies can be designed. As those studies yield results and the links are made, generators and users will have some choices: either to accept almost certain liability for any exposure to their hazardous material or find ways to reduce the hazardous waste stream and, therefore, their liability.

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Responsible businesspeople will certainly choose the latter.

A recent study by the library of Congress showed that 75% of the U.S. population lives in proximity of a chemical plant. In the Twin Cities Metro area there are 111 manufacturing establishments as classified by Standard Industrial Code (SIC) 28, Chemicals and allied products. This number doesn't even include petroleum industries, metal finishers and electronic manufacturers or service establishments that may have large chemical inventories. That's a lot of potential risk.

Here in front of me are 100,000 signatures of Minnesotans who want that risk reduced. Clean Water Action commends Representatives Florio and Sikorski for their efforts on behalf of strong right-to-know legislation and we urge the Congress to adopt such legislation.

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Mr. FLORIO. Let me thank you both for the succinct and pointed statements, and certainly I accept and appreciate the petitions. They really do just reinforce a message that I conveyed to a citizens group this morning that Mr. Sikorski asked me to address, that the growing grassroots movement urging and in a sense demanding action on this problem of toxic wastes is one that is growing by leaps and bounds across the Nation. Your State certainly has been in the forefront of appreciating the gravity of the problem, and therefore you are to be commended, because that is truly federalism the right way. It is federalism in the sense that the States act as laboratories to develop new ideas as opposed to a newer version of federalism which is to give responsibilities with no resources back to the States from the Federal Government.

Let me just ask one question before yielding to Mr. Sikorski.

Recently EPA has come forward with its alternative to community right-to-know. Those who are more cynical say that the proposal is a means of trying to diffuse the pressure for having a mandatory community right-to-know program at the Federal level. The EPA approach is to list, as EPA has just done, some 402 or 403 acutely toxic chemicals and to publish the list, and that is it. And then the explanation is that the list is being published in the hopes that local citizens and communities will then be able to go out and find out where these chemicals are being produced or being stored or being inventoried for other production use. Then the hope is that manufacturers or the storers of these chemical companies will voluntarily come forward with information about the amounts that are stored or used and information about the production process to let people know how things are being produced or how they're being stored and that this information that voluntarily will flow out will result in negotiations being undertaken between community citizens and/or officials and the chemical producers or storers to evaluate whether facilities are safe, to evaluate what is happening in the area, and to develop emergency response capability. This possibility of voluntary action is the rationale for this approach.

Some of us have made the point that that presumes a whole lot of things. It presumes, since it is voluntary, that people will come forward on their own with the information. My apprehension is not the people who will come forward voluntarily. They are probably not people you have to worry about. The people who do not come forward voluntarily with the information are the ones that you probably should have some concerns about. Over and above that, there is a question whether we are going to have the sophistication in the local communities to know and evaluate what it is that is disseminated by way of information.

Can I get any thought from you as to what your views are as to, if we were in a situation—for example, if community right-to-know did not pass, and we were left with this voluntary approach, what your thoughts would be as to the potential for success in achieving some of the goals that you both outlined in terms of research, in terms of capability of responding to problems as well as information out there to help us correct some production facility problems that may exist?

Mr. NELSON. I will begin with some comments on that.

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Based on the testimony that we had before the House Environment Committee on this very issue, it seems to me it is highly unlikely that businesses will simply come forward volunteering all of this information. I think it is an incredibly naive view of the folks who have suggested it. I simply do not see that working at all.

Ms. LADNER. In fact I would say a good example to use of success was what we saw with the Clean Water Act that was initially passed in 1972. If you contrast the point source pollution program and the nonpoint source pollution program under that legislation, what you will find is that there were many industries that were dragged kicking and screaming to clean up their point source pollutants, but because of the very strict standards, because of a time line, because of a lot of compromise and working out a program that did have teeth in it, what we have seen is tremendous progress in cleanup.

The nonpoint source pollution program, which is the reason that Minnesota is not currently meeting its water quality standards, was left to be a voluntary program, so we have studied it to death, we have talked about it a whole lot, but we do not have the kind of aggressive program, and therefore we do not have the kind of success that we had with the point source pollution program, and so I would concur with Representative Nelson that, unless you have something that has some teeth in it, that many people have given input to, community residents are probably not going to find out what they need to know, and we are not going to have the data base we need to really do an effective job of both protecting citizens and firefighters as well as a lot of our businesses.

Mr. FLORIO. Let me recognize Congressman Sikorski.

Mr. SIKORSKI. Thank you, Mr. Chairman.

Just briefly, I think Darby has set out very well four good reasons: The emergency planning, firefighting potential, the just general health effects, and cancer is contracted by one in four Americans. One in five Americans die from it. Cost is $30 billion a year each year in this country, and those figures point up just a kind of a fundamental right that human beings have to know what is being tossed into the soil their kids play on at the playground or is put in the water that their communities drink or is in the air that they breathe as these strange odors waft over their neighborhoods.

You also talked about the epidemiological potential, and I think that is a good summary of concerns.

It can be flipped, too. What do people have to hide? All we are talking about is an annual, single, simple statement: What did you take in, and what did you put out, and what happened to the difference?

Have you had any—and I encourage you, Darby, to forge ahead and offer my assistance in fighting that good fight here on a State basis. Minnesota is behind in the community right-to-know effort nationwide. We are not a leader. We are behind. We have a worker right-to-know, but firefighters are not really protected and emergency people are not protected, and citizens are not protected, and there are a lot of States that do a much better job.

Have you had any experience with voluntary disclosure of this, any of the organizations that you are aware of or associated with been successful in door-knocking various chemical producers or

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users or transporters and successful in getting the information that people should have?

Ms. LADNER. Not that I am aware of. I think that people want to be involved, and there is evidence of that in terms of the kind of response we get when we knock on people's doors and talk to them about problems. There is evidence of that with PCA's hotline in Minnesota where people use it, and they do call up to report problems, so people have an interest, and we have seen examples of very good cooperation between business and citizen leaders.

In Massachusetts our northeast office has been in situations where, once forced to participate, business and community leaders—community leaders have done inspections of plants, gone through, met with business leaders, and we have made tremendous progress, many of which cut down costs of the business in terms of making their system for cleanup and so forth more efficient, where they are actually saving money, and community residents are feeling much better about having an awareness of what is in the plant and knowing that safety procedures are being followed.

Mr. SIKORSKI. Well, we found out—Jim Florio took this subcommittee down with another Subcommittee on Health and Environment, and we had a hearing in Institute, WV, right next to the Union Carbide plant there. It was a week after their plant in India had the release that killed thousands of people and injured a couple hundred thousand others.

The people came in and said sure, we are concerned about getting knocked over dead, but we have lived here 50 years with our families. Some of these factories have been here over 70 years, and what is bothersome on a day to day, almost a second to second, in the night, in the still of the night, when there is a strange odor in the morning, in the afternoon as they go about their family life, their personal lives, what bothers them is the sneaking sense and the visual realization from actual physical incapacities of chronic health risks associated with the normal venting, the routine and regular venting of chemicals that can cause cancer—benzene, PCB's, and the other stuff—that is a very, very powerful thing.

We have testimony prepared by Jim Embretson, the fire marshal of the city of Maplewood, and would ask that his statement and supporting documents, talking about the fire at Hill Murray High School involving PCB's and how they were handicapped by a lack of information, be put in the record.

Mr. FLORIO. Without objection, the statement will be put in the record.

May I ask the gentleman to yield for a minute.

Just to amplify on the point that was made with regard to our hearing in Institute, WV. We all went—it was right after Bhopal—we all went prepared to gather information to attempt to address the potential for a massive, cataclysmic explosion, and as Mr. Sikorski indicated, we were amazed to learn, particularly only as a result of a unique law in West Virginia that requires emissions reports from such facilities, that methyl ethyl cyanide, which of course was the contaminant that killed all the people in India, was being routinely vented out of this facility, at a rate I think of some 12 pounds per hour. This substance was in the normal course of business going into the air. That kind of situation is, in a sense,

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what the right-to-know law is designed to address, to find out what is going on.

Quite frankly the hope is that when one finds out what is going in, the discovery may very well induce some action to stop some things from going on, so I think that is a very good point that the gentleman made, that information is power in some instances, and in these days of less than aggressive implementation of environmental laws at the national level it may very well be that we have got to shift some of that power to more localized levels.

Mr. SIKORSKI. And I think the followup on that story, too, is Union Carbide was quite surprised to find out that they were losing great amounts of not methyl ethyl cyanide but a whole host of other chemicals that are very expensive, and from an efficient manufacturing process they were losing money, and from a public health standpoint they were creating problems, and from a legal standpoint they were adding to their own liabilities. As a response to that hearing they cleaned up that system pretty dramatically and made what is considered the only way of producing that particular chemical, methyl ethyl cyanide, a closed system, a truly closed system as best as they could, or at least they are attempting to do that.

Thank you. I thank the Chairman.

Mr. FLORIO. Mr. Vento.

Mr. VENTO. Thank you, Mr. Chairman.

I first of all want to commend our witnesses. I think they are very helpful, and I also want to quickly point out that, while we have not passed community right-to-know in this State, they were among the leaders in passing a worker right-to-know, and I think that it probably served as a pretty good blueprint of where some of the problems occur and what is the nature of trying to provide more information either to a select group or in a broader sense to the community, what it is all about, and so I think that we all would like to think we are ahead of things here, Mr. Chairman, but this is one area where I think that maybe we are not in the forefront, but the fact is that when that law was passed all sorts of horrendous stories were conjured up to try and defeat it. The fact is it has worked pretty well. We started out with some, I think, some miscues, some telephone-book size regulations that were dropped in every workplace. That was one of the opening salvos, and that was obviously inappropriate and not intended. But later on we came on new firms that were coming in with media programs, short training films—I happen to know one of the individuals that is really making a business out of, in fact, engaging in that, and we have in our State here. We are proud to have a very progressive, very responsive corporate community as well as a very responsive labor community, and hopefully working with State Government, with legislators the quality of Darby Nelson and Steve Novak and Dan Knuth and many others that are here and that you have met in this, and they are working on it, but I think in the same sense we also learn some of the problems with worker "right-to-know."

One of the first things that happened at the national level when I was testifying for the Education and Labor Committee to try and pass the same sort of thing at the national level was the proprietary interests and that we cannot share on a broader sense because

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somehow this is a trade secret, and so we run into all of these sorts of obstacles that I think have to be overcome by a clearinghouse at a national level so we end up with some common rules, and I think while we have led in worker right-to-know—and I am sure that there are some wrinkles that are not completely ironed out—I think the same thing is true at the national level. We have to iron out those wrinkles, because otherwise we end up being the lowest common denominator with regard to worker "right-to-know" or community "right-to-know" or other laws that represent requirements on the business sector or on labor, so I think that that is the real strength.

I really have no questions except to say I want to commend you for your work, and I want to give testimony to everyone why Congressmen need the frank in terms of responding to this. This will be Congressman Sikorski's job.

Mr. SIKORSKI. I will be reading that tonight.

Mr. VENTO. And he will sign every one personally.

Thank you, Mr. Chairman.

Mr. FLORIO. Thank you.

Let me express our appreciation to both of you. As I said, the statements will be put into the record. The statement of the gentleman from the fire department will also be put into the record as well. So thank you very much.

Ms. LADNER. Thank you.

Mr. NELSON. Thank you.

Mr. FLORIO. We are now pleased to have our next panel of witnesses, which is made up of Mr. Thomas Kalitowski, Executive Director of the Minnesota Pollution Control Agency; Mr. Carl Schafer, the Director of Environmental Policy of the Office of the Assistant Secretary of Defense; Mr. Bill Constantelos, the Director of the Waste Management Division of Region 5 of the Environmental Protection Agency; and David Childs, the city manager, city of St. Anthony, is here as well.

Gentlemen, please come forward.

Gentlemen, we welcome you to our committee. We are very pleased to have your testimony and your participation today.

Your statements will be made part of the record in their entirety, and we would ask that you go forward. Perhaps, Mr. Kalitowski, we would be pleased to hear from you now.

STATEMENTS OF THOMAS J. KALITOWSKI, DIRECTOR, MINNESOTA POLLUTION CONTROL AGENCY; CARL SCHAFER, DIRECTOR OF ENVIRONMENTAL POLICY, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE; BASIL G. CONSTANTELOS, DIRECTOR, WASTE MANAGEMENT DIVISION, REGION 5, ENVIRONMENTAL PROTECTION AGENCY; AND DAVID CHILDS, CITY MANAGER, CITY OF ST. ANTHONY

Mr. KALITOWSKI. Mr. Chairman, members of the Subcommittee, thank you. I am pleased to be here to testify this morning.

In particular, Chairman Florio and Representative Sikorski, Representative Vento, I am pleased to be here to personally thank you for your efforts on behalf of the reauthorization and amendment of the Federal Superfund law. Your understanding of the importance

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and dedication to improving the operation of the law by addressing such concerns as community right-to-know and the pace of cleanup at Federal facilities provides vital support and important tools for us to use in Minnesota's pursuit of the cleanup and improved management of hazardous wastes.

Mr. Chairman, I am going to address the topic assigned to the panel of Federal facilities, which by my later remarks will be clear to you that our efforts with regard to Federal facilities have been marked by delays and inefficiencies and not effective use of funds, but I think it is important to contrast some of the efforts in Minnesota in other types of Superfund cleanup so you better understand the problem that we have experienced with Federal facilities.

The disposal of hazardous wastes in Minnesota, as nationwide, has created serious environmental problems. There exist presently 100 confirmed hazardous waste sites here. Thirty-eight of these are listed on the Environmental Protection Agency's National Priorities List.

The Minnesota Pollution Control Agency has received nearly 1,000 hotline tips describing areas of alleged improper hazardous waste disposal. We have checked out most of these. However, approximately 200 complaints remain to be investigated, virtually assuring that our list of confirmed hazardous waste sites requiring cleanup will grow.

It is obvious that we have not escaped this national plague.

Minnesota has, however, responded to the environmental and public health threat with a determination to provide quick, thorough cleanup of hazardous waste sites and a commitment of the legal, financial, and staff resources required to achieve this end.

Minnesota has its own Superfund law enacted in July of 1983. This act envisioned an integrated program of both responsible party and government-financed cleanups of hazardous wastes.

The $5 million initially provided in the State's Superfund has to be used sparingly, and the procedures for utilizing State moneys require that the MPCA first exhaust all other alternatives to financing the work, primarily by requiring those responsible to conduct the cleanups. Using this approach and by employing Federal and State Superfund moneys where necessary, we have made significant progress on addressing this urgent problem.

Since July of 1983 we have issued 39 requests for response action for 38 sites involving more than 150 responsible parties. We have negotiated and entered into legally binding enforcement documents known as Consent Orders where the responsible parties are required to implement response actions at 30 of our sites.

The dollar value of the cleanup Consent Order is estimated at $60 million, and responsible parties have paid almost $1.5 million into the State Superfund for penalties and reimbursement of our costs.

Major source-control cleanups have been completed at 10 hazardous waste sites as a result of cleanup agreements or other MPCA enforcement actions.

We believe we have been successful in our site cleanup efforts both because of our commitment and because of our approach. At the Minnesota Pollution Control Agency we have made the cleanup of hazardous waste sites a high priority and have dedicated 64 staff

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persons to the implementation of Federal and State Superfund. We believe this is roughly equivalent to the staff effort Region V of the EPA has available for the entire five-state region.

Where there are well-established State programs, as in Minnesota and in New Jersey, I might add, we feel the Federal Superfund can best be utilized to commit funds to the States for cleanup activities.

While Federal Superfund moneys provided to the State are important, the disparity in staffing between EPA and PCA means commitment of the Federal dollars lags far behind our readiness to apply them to site cleanups. Thus, as with other environmental programs, we believe the focus of Superfund should be with State responsibility for implementation with EPA funding and oversight.

We have also in Minnesota taken a somewhat different emphasis and approach to cleanups in the EPA. We firmly believe that no matter how big the Superfund is in terms of dollars, there will never be enough money to clean up all existing or future National Priority List sites and that it is through enforcement against responsible parties that the Nation stands the best chance to realize the cleanup of hazardous waste sites.

The MPCA emphasis has been to rapidly seek responsible party commitments to cleanup and to resort to government financed action only if responsible parties refuse to do so.

We would suggest that dealing with responsible parties up front to obtain their commitment to conduct remedial investigations and feasibility studies and to implement the selected remedy—all with EPA and/or State oversight and approval—would move more sites toward cleanup and represent a better use of limited resources. That is our approach in Minnesota, and we believe it is working well to accomplish our goal of environmental restoration.

However, I now need to qualify this approach with respect to Federal facilities as responsible parties. We have not experienced the same degree of success in negotiations to commit to site cleanups at Federal installations as we have experienced with industrial sites or even sites where other governmental units are responsible parties.

We want to move ahead and have done that with other responsible parties, but not with Federal facilities. We cannot get them to respond in as timely a manner or as efficiently as other responsible parties.

As an example, I would like to use cleanup activity at the Twin Cities Army Ammunition Plant in New Brighton that we toured this morning.

We first learned from an Army report in the spring of 1981 that dumping had occurred on the post. The Army had documented in 1978 that such dumping had occurred, but no action had been taken to determine if any impact had resulted from the disposal of these solvents. The MPCA conducted its own investigation and discovered in June of 1981 solvent contamination of important groundwater aquifers beneath and adjacent to the post. The levels of groundwater contamination beneath the post are among the highest contamination levels we have documented at our 100 hazardous waste sites in Minnesota.

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Given the level and extent of contamination, we put a high priority on initiation of cleanup for this site, but we quickly discovered that the Department of Defense works on its own schedule, and there was little we could do to expedite the process. A lack of money was offered as an explanation as well as the opinion that the State did not have jurisdiction over the Federal facility.

The Army began its own studies, setting their own timeframe and study scope. This is contrary to the manner other responsible parties must pursue cleanups under our oversight. Documents describing the study work to be done were given to us to review, not for approval. Few changes were made in study plans as a result of our review and comments. To date most of our comments have been ignored.

The Army claims that roughly $6 million have been spent studying the contamination on the post without indicating responsibility for off-post contamination. We have to date used $1.4 million of Federal Superfund money to determine the source or sources of regional contamination, and we continue to believe that the Twin Cities Army Ammunition Plant is a major source of regional groundwater contamination, if not the only source. Drinking water for 40,000 people has been affected.

Unfortunately, on the post most disposal site problems remain unremedied, although the Army has recently committed to on-post groundwater cleanup measures.

At this time no action is being proposed by the Army to correct the environmental damage off-post. The Army continues to dispute the State's jurisdiction, and they have refused to act until a regional groundwater study conclusively documents responsible parties. Next summer, 5 years after we discovered contaminated groundwater on the post of the Army, we will finally begin groundwater cleanup limited to the post.

MPCA's concern is with the double standard that exists for Federal facilities as compared to other responsible parties. To us, the focus and efforts at the Twin Cities Army Ammunition Plant must be to repair and correct all the environmental damage as quickly as possible, as it is in all our work with responsible parties, rather than questions of jurisdiction and which pot the Federal money will come from.

Federal facilities must be put on the same footing and subject to the same standards as other responsible parties.

We believe we have made some progress at the New Brighton site, due primarily to our enforcement persistence, but unacceptable delays continue. The Army staff at the site have been helpful, but they have been hindered by a response policy set in Washington.

As well as needing dedicated funds for environmental restoration, the operators of Federal facilities need to make a commitment to environmental restoration demonstrated by sincere efforts to seek solutions cooperatively with the States.

Mr. FLORIO. Thank you very much.

Mr. KALITOWSKI. Thank you, Mr. Chairman.

[Statement of Mr. Kalitowski follows:]

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TESTIMONY
PRESENTED BY

THOMAS J. KALITOWSKI
DIRECTOR
MINNESOTA POLLUTION CONTROL AGENCY

DECEMBER 20, 1985

GOOD AFTERNOON. I AM TOM KALITOWSKI, DIRECTOR OF THE MINNESOTA POLLUTION CONTROL AGENCY. I AM PLEASED TO HAVE THE OPPORTUNITY TODAY TO PERSONALLY THANK REPRESENTATIVES FLORIO, SIKORSKI AND VENTO FOR THEIR DILIGENT EFFORTS AND HARD WORK ON BEHALF OF THE REAUTHORIZATION AND AMENDMENT OF THE FEDERAL SUPERFUND LAW. YOUR UNDERSTANDING OF THE IMPORTANCE AND DEDICATION TO IMPROVING THE OPERATION OF THE LAW, BY ADDRESSING SUCH CONCERNS AS COMMUNITY RIGHT-TO-KNOW AND THE PACE OF CLEANUP AT FEDERAL FACILITIES, PROVIDES VITAL SUPPORT AND IMPORTANT TOOLS FOR US TO USE IN MINNESOTA'S PURSUIT OF THE CLEANUP AND IMPROVED MANAGEMENT OF HAZARDOUS WASTES.

THE DISPOSAL OF HAZARDOUS WASTE IN MINNESOTA, AS NATIONWIDE, HAS CREATED SERIOUS ENVIRONMENTAL PROBLEMS. THERE EXIST PRESENTLY 100 CONFIRMED HAZARDOUS WASTE SITES HERE. WE HAVE NOMINATED AND SECURED THE LISTING OF 38 OF THESE 100 SITES ON THE ENVIRONMENTAL PROTECTION AGENCY'S NATIONAL PRIORITY LIST. THE MINNESOTA POLLUTION CONTROL AGENCY (MPCA) HAS RECEIVED NEARLY ONE THOUSAND "HOTLINE"

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TIPS DESCRIBING AREAS OF ALLEGED IMPROPER HAZARDOUS WASTE DISPOSAL. WHILE WE HAVE CHECKED OUT MOST OF THESE, ABOUT 200 COMPLAINTS REMAIN TO BE INVESTIGATED, VIRTUALLY ASSURING THAT OUR LIST OF CONFIRMED HAZARDOUS WASTE SITES REQUIRING CLEANUP WILL GROW. WE HAVE NOT ESCAPED THE NATIONAL PLAGUE.

MINNESOTA HAS, HOWEVER, RESPONDED TO THIS ENVIRONMENTAL AND PUBLIC HEALTH THREAT WITH A DETERMINATION TO PROVIDE QUICK, THOROUGH CLEANUP OF HAZARDOUS WASTE SITES AND A COMMITMENT OF THE LEGAL, FINANCIAL AND STAFF RESOURCES REQUIRED TO ACHIEVE IT.

MINNESOTA HAS ITS OWN SUPERFUND LAW, THE MINNESOTA ENVIRONMENTAL RESPONSE AND LIABILITY ACT, WHICH BECAME EFFECTIVE JULY 1, 1983. THIS ACT ENVISIONED AN INTEGRATED PROGRAM OF BOTH RESPONSIBLE PARTY AND GOVERNMENT FINANCED CLEANUPS OF HAZARDOUS WASTE. THE FIVE MILLION DOLLARS PROVIDED IN THE STATE SUPERFUND HAS TO BE USED SPARINGLY AND THE PROCEDURES FOR UTILIZING STATE MONIES REQUIRE THAT MPCA FIRST EXHAUST ALL OTHER ALTERNATIVES TO FINANCING THE WORK, PRIMARILY BY REQUIRING THOSE RESPONSIBLE TO CONDUCT THE CLEANUPS. USING THIS APPROACH AND BY EMPLOYING FEDERAL, AND STATE SUPERFUND MONIES WHERE NECESSARY, WE HAVE MADE SIGNIFICANT PROGRESS ON ADDRESSING THIS EXTENSIVE AND URGENT PROBLEM.

SINCE JULY, 1983, THE MPCA HAS ISSUED 39 REQUESTS FOR RESPONSE ACTION FOR 38 SITES INVOLVING MORE THAN 150 RESPONSIBLE PARTIES. WE HAVE NEGOTIATED AND ENTERED INTO LEGALLY BINDING ENFORCEMENT

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DOCUMENTS KNOWN AS CONSENT ORDERS WHERE THE RESPONSIBLE PARTIES ARE REQUIRED TO IMPLEMENT RESPONSE ACTION AT 30 SITES. THE DOLLAR VALUE OF THE CLEANUP CONSENT ORDERS IS ESTIMATED AT 60 MILLION, AND RESPONSIBLE PARTIES HAVE PAID MORE THAN 1.4 MILLION INTO THE STATE SUPERFUND FOR PENALTIES AND REIMBURSEMENT OF OUR COSTS. MAJOR SOURCE-CONTROL CLEANUPS HAVE BEEN COMPLETED AT 10 HAZARDOUS WASTE SITES AS A RESULT OF CLEANUP AGREEMENTS OR OTHER MPCA ENFORCEMENT ACTIONS. MORE THAN 100,500 CUBIC YARDS OF WASTES AND CONTAMINATED SOILS HAVE BEEN REMOVED OR CONTAINED, AND MORE THAN 7,000 DRUMS OF WASTE HAVE BEEN EXCAVATED AND PROPERLY DISPOSED OF.

WE BELIEVE WE HAVE BEEN SUCCESSFUL IN OUR SITE CLEANUP EFFORTS BOTH BECAUSE OF OUR COMMITMENT AND OUR APPROACH. AT THE MINNESOTA POLLUTION CONTROL AGENCY WE HAVE MADE THE CLEANUP OF HAZARDOUS WASTE SITES A HIGH PRIORITY AND HAVE DEDICATED 64 STAFF TO THE IMPLEMENTATION OF FEDERAL AND STATE SUPERFUND. WE BELIEVE THIS IS ROUGHLY EQUIVALENT TO THE STAFF EFFORT REGION V, EPA HAS AVAILABLE FOR THE ENTIRE 5 STATE REGION. BECAUSE OF OUR WELL ESTABLISHED PROGRAM, WE FEEL THE FEDERAL SUPERFUND PROGRAM HAS BEEN MOST EFFECTIVE AT COMMITTING FUNDS TO THE STATES FOR CLEANUP ACTIVITIES. THE FEDERAL SUPER FUND MONIES PROVIDED TO THE STATE ARE IMPORTANT BUT THE DISPARITY IN STAFFING BETWEEN EPA AND MPCA MEANS COMMITMENT OF THE FEDERAL DOLLARS LAGS BEHIND OUR READINESS TO APPLY THEM TO SITE CLEANUP. AS WITH OTHER ENVIRONMENTAL PROGRAMS, THE FOCUS SHOULD BE WITH STATE RESPONSIBILITY FOR IMPLEMENTATION AND EPA OVERSIGHT.

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WE HAVE ALSO IN MINNESOTA, TAKEN A SOMEWHAT DIFFERENT EMPHASIS AND APPROACH TO CLEANUP. WE FIRMLY BELIEVE THAT NO MATTER HOW BIG THE SUPERFUND IS IN TERMS OF DOLLARS, THERE WILL NEVER BE ENOUGH MONEY TO CLEANUP ALL EXISTING OR FUTURE NPL SITES, AND THAT IT IS THROUGH ENFORCEMENT AGAINST RESPONSIBLE PARTIES THAT THE NATION STANDS THE BEST CHANCE TO REALIZE THE CLEANUP OF HAZARDOUS WASTE SITES. THE MPCA EMPHASIS HAS BEEN TO RAPIDLY SEEK RESPONSIBLE PARTY COMMITMENTS TO CLEANUP AND RESORT TO GOVERNMENT FINANCED ACTION ONLY IF RESPONSIBLE PARTIES REFUSE TO DO SO. WE SUGGEST THAT DEALING WITH RESPONSIBLE PARTIES UP FRONT TO OBTAIN THEIR COMMITMENT TO CONDUCT REMEDIAL INVESTIGATION AND FEASIBILITY STUDIES AND TO IMPLEMENT THE SELECTED REMEDY, ALL WITH EPA AND/OR STATE OVERSIGHT AND APPROVAL, WOULD MOVE MORE SITES TOWARD CLEANUP AND REPRESENT A BETTER USE OF RESOURCES. THAT IS OUR APPROACH IN MINNESOTA AND IT IS WORKING WELL TO ACCOMPLISH OUR GOAL OF ENVIRONMENTAL RESTORATION.

NOW I NEED TO QUALIFY THIS APPROACH WITH RESPECT TO FEDERAL FACILITIES AS RESPONSIBLE PARTIES. WE HAVE NOT EXPERIENCED THE SAME DEGREE OF SUCCESS IN NEGOTIATIONS TO COMMIT TO SITE CLEANUPS AT FEDERAL INSTALLATIONS AS WE HAVE EXPERIENCED WITH INDUSTRIAL SITES OR SITES WHERE OTHER GOVERNMENTAL UNITS ARE RESPONSIBLE PARTIES. WE WANT TO MOVE AHEAD AND HAVE DONE THAT WITH OTHER RESPONSIBLE PARTIES BUT NOT WITH FEDERAL FACILITIES. WE CANNOT GET THEM TO RESPOND IN AS TIMELY A MANNER OR AS EFFICIENTLY AS OTHER RESPONSIBLE PARTIES. AS AN EXAMPLE, I WOULD LIKE TO USE CLEANUP ACTIVITY AT THE TWIN CITIES ARMY AMMUNITION PLANT IN NEW BRIGHTON THAT WE TOURED THIS MORNING.

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WE FIRST LEARNED FROM AN ARMY REPORT IN SPRING OF 1981 THAT DUMPING HAD OCCURED ON THE POST. THE ARMY HAD DOCUMENTED IN 1978 THAT SUCH DUMPING HAD OCCURRED, BUT NO ACTION HAD BEEN TAKEN TO DETERMINE IF ANY IMPACT HAD RESULTED FROM THE DISPOSAL OF SOLVENTS. THE MPCA CONDUCTED ITS OWN INVESTIGATION AND DISCOVERED IN JUNE, 1981, SOLVENT CONTAMINATION OF IMPORTANT GROUND WATER AQUIFERS BENEATH AND ADJACENT TO THE POST. THE LEVELS OF GROUND WATER CONTAMINATION BENEATH THE POST ARE AMONG THE HIGHEST CONTAMINATION LEVELS WE HAVE DOCUMENTED AT OUR 100 HAZARDOUS WASTE SITES.

GIVE THE LEVEL AND EXTENT OF THE CONTAMINATION, WE PUT A HIGH PRIORITY ON INITIATION OF CLEANUP FOR THIS SITE BUT WE QUICKLY DISCOVERED THAT THE DEPARTMENT OF DEFENSE WORKS ON ITS OWN SCHEDULE, AND THERE WAS LITTLE WE COULD DO TO EXPEDITE THE PROCESS. A LACK OF MONEY WAS OFFERED AS AN EXPLANATION AS WELL AS THE OPINION THAT THE STATE DID NOT HAVE JURISDICTION OVER FEDERAL FACILITIES.

THE ARMY BEGAN ITS OWN STUDIES, SETTING THEIR OWN TIMEFRAME AND STUDY SCOPE. THIS IS CONTRARY TO THE MANNER OTHER RESPONSIBLE PARTIES MUST PURSUE CLEANUPS UNDER OUR OVERSIGHT. DOCUMENTS DESCRIBING THE STUDY WORK TO BE DONE WERE GIVEN TO US TO REVIEW, NOT FOR APPROVAL. FEW CHANGES WERE MADE IN STUDY PLANS AS A RESULT OF OUR REVIEW AND COMMENTS; MOST OF OUR COMMENTS HAVE BEEN IGNORED.

THE ARMY CLAIMS THAT ROUGHLY 6 MILLION DOLLARS HAVE BEEN SPENT STUDYING THE CONTAMINATION ON THE POST WITHOUT INDICATING

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RESPONSIBILITY FOR OFF-POST CONTAMINATION. WE HAVE TO DATE USED 1.4 MILLION DOLLARS OF FEDERAL SUPERFUND MONEY TO DETERMINE THE SOURCE OR SOURCES OF REGIONAL CONTAMINATION AND WE CONTINUE TO BELIEVE THAT THE TWIN CITIES ARMY AMMUNITION PLANT IS A MAJOR SOURCE OF REGIONAL GROUND WATER CONTAMINATION, IF NOT THE ONLY SOURCE. DRINKING WATER FOR 40,000 PEOPLE HAS BEEN AFFECTED. UNFORTUNATELY ON THE POST, MOST DISPOSAL SITE PROBLEMS REMAIN UNREMEDIED ALTHOUGH THE ARMY HAS RECENTLY COMMITTED TO ON POST GROUND WATER CLEANUP MEASURES. AT THIS TIME NO ACTION IS BEING PROPOSED BY THE ARMY TO CORRECT THE ENVIRONMENTAL DAMAGE OFF POST AS THE ARMY CLAIMS THE STATE HAS NO JURISDICTION AND THEY WILL NOT ACT UNTIL A REGIONAL GROUND WATER STUDY CONCLUSIVELY DOCUMENTS RESPONSIBLE PARTIES. NEXT SUMMER, FIVE YEARS AFTER WE DISCOVERED CONTAMINATED GROUNDWATER ON THE POST THE ARMY WILL FINALLY BEGIN GROUND WATER CLEANUP LIMITED TO THE POST.

MPCA'S CONCERN IS WITH THE DOUBLE STANDARD THAT EXISTS FOR FEDERAL FACILITIES AS COMPARED TO OTHER RESPONSIBLE PARTIES. TO US, THE FOCUS AND EFFORTS AT THE TWIN CITIES ARMY AMMUNITION PLANT MUST BE TO REPAIR AND CORRECT THE ENVIRONMENTAL DAMAGE AS QUICKLY AS POSSIBLE, AS IT IS IN ALL OUR WORK WITH RESPONSIBLE PARTIES, RATHER THAN QUESTIONS OF JURISDICTION AND WHICH POT THE FEDERAL MONEY WILL COME FROM. FEDERAL FACILITIES MUST BE PUT ON THE SAME FOOTING AND SUBJECT TO THE SAME STANDARDS AS OTHER RESPONSIBLE PARTIES.

WE BELIEVE WE HAVE MADE SOME PROGRESS AT THE NEW BRIGHTON SITE, DUE PRIMARILY TO OUR ENFORCEMENT PERSISTENCE BUT UNACCEPTABLE DELAYS CONTINUE. THE ARMY STAFF AT THE SITE HAVE BEEN HELPFUL BUT THE RESPONSE POLICY IS SET IN WASHINGTON. AS WELL AS NEEDING DEDICATED FUNDS FOR ENVIRONMENTAL RESTORATION, THE OPERATORS OF FEDERAL FACILITIES NEED TO MAKE A COMMITMENT TO ENVIRONMENTAL RESTORATION DEMONSTRATED BY SINCERE EFFORTS TO SEEK SOLUTIONS AND COOPERATION WITH THE STATES.

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Mr. FLORIO. Mr. Schafer, pleased to hear from you.

STATEMENT OF CARL SCHAFER

Mr. SCHAFER. Thank you, Mr. Chairman, members of the subcommittee. I will try to be brief.

The Superfund program is a task of herculean proportions. It is a relatively new program, in fact the methodologies are just now evolving.

Science and technology, according to the Office of Technology Assessment, a branch of Congress, are not precise. There are, in fact, many opportunities for technical disagreement, and there are large costs at issue. In fact, these large costs lead to the conclusion as well that no one can do everything at once locally or nationally.

My point also then goes to a practical issue. We engineers are faced with some large issues of cost but also some very practical issues of basically where to put this stuff once we dig it up. It is a very perplexing problem.

Within this context, however, the program has moved forward very significantly. EPA, faced with this herculean task, has done yeoman work. They have issued guidelines, regulations, the National Contingency Plan, on subjects ranging from the trivial to the cosmic, from the mundane to the esoteric. I do not envy them their job.

The Department of Defense as well wants to get on board. We want to be a player. We want to be a leader. In fact, the Department of Defense program as well is gaining momentum.

In fiscal year 1984 the Department's Environmental Restoration Account was established containing $75 million for the purposes of cleanup. In fiscal year 1985 we have spent approximately $180 million for cleanup. Our budget request for 1986 is for $250 million for cleanup.

We estimate that our total program of cleanup, when all has been said and done, will have cost between $5 billion and $10 billion nationwide.

There continues additional progress as well. The reauthorization of CERCLA, the Superfund Act in Congress now, contains many provisions in a separate section sponsored by the House Armed Services Committee that deal with the subject of procedures and requirements applicable to Federal facilities based on the premise that Federal facilities be treated like private industry, but recognizing that there are some significant differences between the departments of government and private industry, especially with respect to where we get our money and how we get our money.

In fact, all of the funds that I have alluded to with respect to the Department of Defense program are in fact appropriated moneys. They are not drawn from the Superfund. Our requirement is to meet Superfund but on our own funds.

These amendments now pending in Congress would also put EPA and State requirements in place as driving our cleanup program much in the manner as has been described here today.

These are all progressive things.

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In this context then you could also view the Twin Cities Army Ammunition Plant cleanup as paralleling this increasing momentum being achieved.

There have been problems. There have been onerous problems. There have been problems such that I really wish I did not have to talk to you today and admit that. Nonetheless, they are human problems. They are in the area of communications. Communications is a very hard thing even when people are trying to agree.

I have already told you that I think there are significant science and technology problems with these cleanups and, especially with the amounts of money involved that there are communications are going to be hard. They will continue to be hard. We will do our best.

But there have also been improvements. Within the past 6 months especially there have been significant improvements at the Twin Cities Army Ammunition Plant. There is an on-scene coordinator appointed there now. He is a dedicated full-time employee for the one job of providing the decision-making point of contact for the State and Federal regulatory agencies and to coordinate the Army cleanup program on Twin Cities. He is, of course, Mr. Clarence Oster, who is present here today.

We have within the past 6 months signed an agreement with Honeywell, a private industrial tenant aboard Twin Cities Army Ammunition Plant, relating to how we will move out on the investigation and cleanup of the contamination on that post.

The Army itself has a remedial action plan, and I will come back to that.

We are having monthly meetings with EPA and the State in order to improve our communications, and we have instituted a community relations program as well, that most recently.

As to expenditures there, we have spent $3.3 million for studies, $2.2 million in addition spent for remedial actions, and $400,000 spent for the pilot testing of an innovative technology designed to provide the necessary degree of protection of human health and the environment within a more cost-effective approach.

I believe Honeywell has spent or will spend in addition another $5 million under the remedial action plan as is currently described, which calls for a total expenditure of some $15 million to $17 million through fiscal year 1986. That is a significant commitment, and I will go further than that. I believe that the total cleanup program will probably cost more than that, significantly more, as much as twice the amount.

We do not view the existing remedial action plan as a complete plan. Indeed it was described to me as a living document, but the point is to get the cleanup in progress and to get the sources of these contaminants stopped as quickly as we can, and so there will continue to be improvements.

The Minnesota Pollution Control Agency has commented on this remedial action plan, and those comments will be accepted and will be accommodated. There will be additional studies; especially there will be additional studies on the 10 remaining sites. There will be cleanup.

The plume study by Honeywell off-post which was first described and begun in July 1984 will be completed in December 1986, and

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that will enable us to resolve the issue of liability, I believe, for the New Brighton water contamination.

This current plan then is an attempt to deal with the most significant sources first. We will also deal with these other lesser sources, and we will do so in full cooperation with EPA and the State.

If communications have been a problem in the past, a great deal of progress has been made in the past 6 months and nationally, for that matter, in the reauthorization process.

But let there be no question of intent here. The Department of Defense is committed to cleanup, not only TCAAP, but all of our sites across the Nation, whether under CERCLA or under section 3004[u] of RCRA.

With respect to TCAAP in particular, the Department of Defense wants to be a good neighbor. These sites will be cleaned up as quickly and responsibly as possible. To that end, I believe that we should enter into an agreement detailing what the cleanup will be, where it is going, calling for all the various aspects of it that will lead us in a logical manner, working together, to the end product, which we all desire so strongly, and that is clean water and clean earth.

Thank you, sir.

Mr. FLORIO. Thank you very much.

Mr. Constantelos.

STATEMENT OF BASIL G. CONSTANTELOS

Mr. CONSTANTELOS; Yes, that is correct.

Thank you Chairman Florio, Mr. Sikorski, and Mr. Vento.

My name is Bill Constantelos, and I am the Director of the Waste Management Division in Region 5 in Chicago. My division is responsible for implementing the Resource Conservation Recovery Act as well as the Superfund law for the States of Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio.

I have no written statement so I had better be able to speak a little more loudly, I guess.

I have some comments that I have written down that will take just a brief period.

My comments are basically directed toward Congressman Florio's request for information on EPA's involvement relative to the New Brighton Twin Cities Army Ammunition Plant.

In addressing the question, I would like to start by talking first about our involvement with offsite activities at the facility or near the facility.

In the spring of 1982, we started to work with the Minnesota Pollution Control Agency on the offsite contamination near the facility.

In 1983, after the site had been listed on the National Priority List, we entered a cooperative agreement with the State of Minnesota so that the Minnesota Pollution Control Agency could initiate and study the offsite contamination in an areawide study.

It is important for us to note that we do do a number of studies in the State of Minnesota with the State taking the lead. The State has in the past shown a great ability to complete these studies and

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to do quality work, and consequently the EPA can concentrate on sites in other States.

This study began in 1983, like I said, and is an areawide study, and we anticipate that it will be completed this fall, this coming fall, and that we will open it up to the public. Minnesota will conduct public meetings to receive whatever comments are available from the public and then go forward with our study and the actions necessary to correct whatever contamination is offsite.

Since June of 1983 approximately $3 million from the Superfund has been used in this area to fund this study as well as to provide alternate water supplies for Arden Hills and St. Anthony and to provide carbon treatment for the city of New Brighton.

Onsite our role has been somewhat different. We have not expended any Superfund money directly onsite, and the work that has been done onsite has been done through DOD.

Our areas of activity onsite began in 1981 when we started to receive some reports from the Twin Cities Army Ammunition Plant about the contamination and started to review these reports and provide our comments. Our role since then has continued to be very much the same as far as providing consultative advice and comments on these activities relative to their compliance with the National Contingency Plan, which is our methodology for improving sites across the country.

Our activities are basically governed by the executive order, 12316, which was signed when the Superfund was first enacted immediately after 1980. Also there is a memorandum of agreement between us and the United States Department of Defense governing and dictating how we interrelate on these facilities. We have done our best to live up to our part of that agreement and move forward and to help the Army clean this facility.

I will be happy to answer any questions. I did this more as a background to show you how we got where we are. I will be happy to answer any specific questions you have.

Thank you.

Mr. FLORIO. Mr. Childs, before we ask you to go forward, Mr. Vento has another commitment, I know he takes such a leadership role in this, and I believe that he has a few questions that he would like to ask some of the witnesses, so we will recognize Mr. Vento, and then go forward.

Mr. VENTO. Mr. Chairman, I just want to again just point out that I have had the privilege of having the Army visit me on Phase 1 and Phase 2 and Phase 3. Mr. Kalitowski, of course, the MPCA, is the local EPA responsible agent. They have delegated the responsibility to him.

I think the testimony that has come out here has indicated that there has not been complete harmony with regard to the types of plans and what will take place. I think that stands as a testimony to the type of legislation in which the EPA would be given more authority and more responsibility for leadership and for taking the lead in these roles.

The fact is that the amount of money that has been spent by EPA is very, very small. I said before that it was—I have here a statement from the mayor, for instance, from the paper where he points out the EPA did provide $150,000 of Superfund money to lay

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about 300 feet of pipe to connect St. Anthony and Roseville water systems, and I think you mentioned some carbon filter activity.

The fact is that everyone has dumped into this thing millions of dollars in terms of study, but when it comes to putting in a well to meet the people's needs, we have not got that, and all of these dollars that go into studies in another sense are more grist for the legal mill. That is what we really have going on here. Yes; you have to study it to understand definitively how to remediate and how to understand the nature of the problem, but the fact of the matter is that there is no admission on the part of the Army. In other words, you find what is happening here is exactly what Superfund has tried to avoid. In other words, not to get involved in a legal tangle, but to solve the problems that people are experiencing, and clearly that is not occurring. The millions of dollars that the city has had to spend in terms of drilling wells is being picked up by the city. If they are able to get money out of other Federal sources nonrelated, they can do so, but they are really left holding the bag with regards to dealing with this problem, and the law actually gave them no option but to enter into a legal suit against the Army and citizen suits against the Army or against the likely and probable cause of the trichlorethylene, and so that is what we are in. We have got a legal quagmire here.

And all the good intentions and the things they are doing and Mr. Oster's leadership and others on the facility, no one can disagree with that, but the fact of the matter is that that is not really dealing with remediating or correcting or even helping the folks outside.

Yes; you have provided some bottled water, small amounts of effort, but the major thrust and problems have settled on the community, and is not a time to point fingers. You are doing what you have to do, but the fact of the matter is the law has created this hiatus, and it has created a problem, and I think that the proposals that we have before us have to address that.

I do not have time to ask the questions that I would like to. I will leave them and will ask that, if I could, I would like to submit them in writing, Mr. Chairman, for the committee record and not take any more time. Just to thank you again for coming and Congressman Sikorski for his good work, and I am going to be on my way, but I want to thank everyone who has cooperated to make this hearing possible and to make it knowledgeable. We do, indeed, even though there is disagreement, appreciate the help and understand some of the limitations legally and otherwise that you have. We hope that we in crafting policy can correct that so that we can attain the goal that certainly we all have.

Thank you, Mr. Chairman.

Mr. FLORIO. Mr. Childs?

STATEMENT OF DAVID CHILDS

Mr. CHILDS. Thank you very much.

You are not armed are you? I want to say that because we have heard about the community relations program the Army has, and the city of St. Anthony has never heard of that program before, and perhaps we need to make a little bit more noise so that they

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know we are out here so they can provide the community relations information.

I would like to read a very brief statement that we prepared. The Mayor was unable to attend, but he did ask me to state that it would be hard for him to come and talk with clinched teeth anyway.

The city of St. Anthony is mainly a residential first-ring suburb of Minneapolis-St. Paul metro area. We have a population of about 8,000 persons and are located southwest of the Twin Cities Army Ammunition Plant, and we are separated by that facility only by the City of New Brighton.

In 1981 New Brighton discovered significant levels of volatile organic hydrocarbons included but not limited to trichloroethylene, which is a suspected chronic carcinogin and a common degreasing agent, in several of their water wells. They were required to take immediate, costly remedial action largely at their own expense and no longer draw water from that contaminated acquifer.

Just downstream is St. Anthony. Our three municipal water wells which pump from the same Prairie Du Chien and Jordan aquifer and at that time showed no contamination. In 1982, however, trace levels of the same contaminants were detected in one of the city's wells. Levels rose slowly over the following months to the point that in February of 1983 the Minnesota Department of Health required our city to close one of its three wells and continue to closely monitor the remaining wells as contamination levels slowly increased.

Today we operate with two wells, and in the summertime augment our needs with a temporary interconnection with the St. Paul water system, which was completed in 1984 at a cost at just over $150,000, and this cost was largely but not completely paid for with EPA dollars.

We have been advised within the past several weeks that based on a regression analysis a positive correlation can be demonstrated between the rising levels of contamination and the passage of time for at least one of our two remaining water wells. This means that it is inevitable that we will have to close the well sometime in the future for the safety of our citizens.

An alternative study to find out where we might get our future water supply would depend on re-enactment of the Superfund bill. We have been told by EPA that funds for that study are not available unless Superfund is re-enacted. In the meantime, the United States Army has admitted that the contamination of the groundwater beneath the Twin Cities Army Ammunition Plant is a result of operations on the facility and that these contaminants in the groundwater have migrated to the boundary of their facility. They have also publicly stated that there is no evidence that these contaminants have moved beyond the boundaries of their facility. Our observation is that such a statement either assumes that the rest of us are incredibly stupid or that the Army's chain link fence is an effective barrier to the migration of contaminants in the groundwater.

Today the U.S. Government, through the Army, is studying the problem as they have been since 1981. The U.S. Government, through the EPA, is studying the problem as they have been for

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several years. Citizens of the United States who reside in St. Anthony wait. We wait and wonder. We wonder why the U.S. Government acts quickly and strongly when a private industry pollutes water supplies but wallows in interagency sleight-of-hand and sidestepping when one of Uncle Sam's departments is involved.

Our residents have been extremely patient and understanding through this process, but they have been patient for a long, long time, and you should be aware that patience has its limits and that our frustration at the inactivity and buckpassing is real and we believe well justified.

St. Anthony has historically had excellent and low-cost municipal water. We face remedial alternatives which could nearly triple our water rates forever and, to add insult to injury, provide our citizens with water which is vastly inferior in taste and quality to that which we have faithfully provided for more than 30 years.

We demand that the U.S. Government, through the Army or the EPA, take responsibility for what everyone knows has happened and act appropriately to assure that the specific measurable effects of groundwater contamination on the city of St. Anthony and New Brighton be properly mitigated and compensated.

With all due respect, we are tired of waiting.

Thank you.

Mr. FLORIO. Thank you very much.

We will try and respond to some of the points that were raised, and perhaps, Mr. Kalitowski, let me ask your opinion as to the approach that you are taking in general that you outlined in the beginning of your remarks, and particularly the approach dealing with Federal facilities.

Something that has troubled me about how the discussion has turned over the last 4 years with regard to the intent of Superfund is I think illustrative of how the whole mentality of the country has changed on environmental matters. For example, you have said that as the person with delegated authority in the State you are spending a lot of time in terms of trying to find the responsible parties—it certainly is your responsibility—and then attempting to enter into negotiations and settlements, consent orders, and things of that sort.

My concern is that we have gotten away from the intent of the law as it was passed 5 or 6 years ago which was to provide for the need to make contact with the responsible parties who were identified then attempt to induce them to take action, whether they be Federal authorities or private parties, but if that was not forthcoming in a very quick period of time—surely 4 years, 5 years is not a quick period of time—EPA was charged with the responsibility of using Superfund to clean up and then go to recapture funds for the replenishing of Superfund. No one is doing that anymore, and what we are seeing happen is this protracted negotiation process, litigation process, and no cleanup. Literally no cleanup. Five years, not a single NPL site cleaned up. How is it that you think we have gotten away from the major thrust of Superfund which was to use the fund for immediately addressing those sites which by definition are imminent and substantial dangers to people's health and the environment and we have gotten off into this negotiating posture?

Will you share with us your thoughts on that?

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Mr. KALITOWSKI. Mr. Chairman, Congressman Sikorski, I would be happy to.

Perhaps some of your questions would best be answered by the gentleman from EPA, although I certainly have opinions on how EPA's Superfund might work better, but let me address your question from the perspective of the State of Minnesota's procedure, and I think, Mr. Chairman, that our success, our ability to have 10 cleanup sites completed while the Federal Government has none, is due to our understanding of the policy that you stated that you thought was Congress's initial policy, which to put in shorthand is clean up first and litigate later. I——

Mr. FLORIO. Let me ask one clarifying question so that you can respond to my real intent. Are you using your Superfund spill fund here in the State for non-NPL sites?

Mr. KALITOWSKI. That is correct.

Mr. FLORIO. OK. Now of course you also play a role, and perhaps the lead role in many instances, on the NPL sites that have had authority delegated to you to play the role that EPA could play if it assumed full responsibility.

On the NPL sites that you are delegated authority to deal with, do you have the same approach in terms of utilizing the money to clean up and then pursuing responsible parties?

Mr. KALITOWSKI. I am not sure I can speak in detail to the national priority sites and the Federal Superfund sites. I do have the Director of our Division of Solid and Hazardous Wastes that might want to better outline the difference between the approach.

What I wanted to emphasize with regard to our State Superfund approach, and I think it gets at one of your direct comments which was the concern about protracted negotiation with responsible parties.

Our intent is to identify responsible parties to make a formal request for action on behalf of that party to do the investigation, the feasibility study, and to commit to a remedy under a very limited timeframe for negotiation with the direct statement on our part that if the agreement is not reached within 60, 90 days, the usual timeframe, we will proceed with the State Superfund dollars to go in and do the cleanup ourselves. We have not had to resort to the State Superfund cleanup dollars in very many instances because confronted with that situation responsible parties have come to the table and have signed consent agreements at 30 of our sites.

Mr. FLORIO. Well, that was the theory behind Superfund, that we would have that approach.

Let me ask one question and then maybe ask for some comments from EPA.

You have two separate staff arrangements for carrying out your NPL responsibilities as contrasted with your State Superfund responsibilities?

Mr. KALITOWSKI. No.

Mr. FLORIO. So there is one group of people——

Mr. KALITOWSKI. Yes.

Mr. FLORIO [continuing]. That undertake the responsibilities for both programs.

Mr. KALITOWSKI. That is correct.

Mr. FLORIO. Could I ask then for EPA's observations on this?

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Mr. CONSTANTELOS. Certainly. I think we have followed our outline quite well actually. I am particularly proud of the activities in our region. We have negotiated many agreements, both litigative as well as administrative, with potentially responsible parties in our region. These people have committed to over $200 million worth of cleanups in our region alone.

In the last fiscal year alone our region recovered over $8.9 million in past costs from these entities, and we do not extend negotiations indeterminantly.

Mr. FLORIO. How many sites have you cleaned up in the State?

Mr. CONSTANTELOS. We have at least I would say almost a hundred where actions have been taken that have mitigated the immediate threats, and we are now doing involved and very highly technical ground water evaluations which are quite complicated if you are going to do a correct job.

The activities we are taking in the State of Minnesota are perfectly consistent with the activities we are taking in all of our States. Minnesota is taking the lead because they have a very good law, they have a good staff, and they are very capable.

Some of our States are not as fortunate as Minnesota and perhaps may not have had the foresight of the State of Minnesota. In those States we are taking a larger lead role working with our States, but we are implementing the same program.

Mr. FLORIO. Let me suggest one of the difficulties I have with the approach that you—not just you but the agency—has suggested by trying to make a differentiation between an NPL site that only gets on the list if it is regarded as an imminent hazard and the short-term temporary action which is said to be necessary to stop the imminent hazard while the site stays on the list but no one gets around to long-term remedial work or actual cleanup.

I have some difficulties because there is no concept in the law justifying these two classifications. Once a site is a National Priorities List site, it is a site that is regarded as an imminent and substantial hazard and you are charged with expending moneys to clean it up. There is not this second category of sites where only short-term, temporary actions are taken—and let me use an example that was brought to my attention. You have a site, and let us assume that there are 100 barrels of something on the site on top of the aquifer. One of the barrels is leaking. The site is designated as an imminent and substantial hazard to people's health. You take the leaking barrel off and you then do not regard the site as an imminent and substantial health site, and therefore you are not required to clean it up. You can go into protracted litigation, you can go into negotiations, and somehow this listed site is placed in a second classification of sites, and that of course is what, according to EPA, all of the sites that we have in the country are now in. EPA maintains that there are few if any that are today on the list of 850 that are imminent and substantial hazards to health because you have remedied the imminent aspect of the health hazard. That is you have taken that one barrel out. The 99 other ones start to leak tomorrow. They go back on this urgency list.

That is a troubling concept, first of all because it is not contemplated under the law, this second classification of sites. Over and above that, not that it is anyone's motivation to do this, but the

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two categories also provides for the opportunity not to address those sites with the sense of urgency that is the motivating force behind Superfund. It allows for what we have seen in the last 5 years: The negotiations, the different delay activities that do not result in any cleanup.

Can you just briefly tell me if there is any justification for creating the second category of Superfund National Priorities List sites that are not imminent, however defined by you as a hazard?

Mr. CONSTANTELOS. I consider that second class that you have identified to be imminent. They are just not as immediately a threat as the burning barrel, the barrel leaking this very day, the air emissions——

Mr. FLORIO. Is that not an emergency response, because there is a category under the law——

Mr. CONSTANTELOS. Yes.

Mr. FLORIO [continuing]. That provides you with the capability of going onto a site and arresting——

Mr. CONSTANTELOS. Yes; we do that.

Mr. FLORIO [continuing]. An emergency response. That would be my concept of the leaking barrel, the exploding, burning something. Those are response activities, removal activities.

Mr. CONSTANTELOS. Yes.

Mr. FLORIO. Those are not remedial cleanup activities.

Mr. CONSTANTELOS. OK.

Mr. FLORIO. You are creating three categories now. The law does not do that.

Mr. CONSTANTELOS. OK. If you approach a site and there, let us say, are 100 barrels on the surface of the site and you know they are leaking, you know they are contaminating the ground because they are leaking, they are also potentially presenting an air risk from leaking, cleaning the barrels and removing them which is what we are calling our first phase or what you called earlier our first phase, is an obvious thing you want to do. To study the ground, how much it is contaminated, to study the ground water, how much it is contaminated, the rate of flow, the direction of flow, so that you can produce a positive answer to that environmental threat so that when you walk away you can say to Congress that this site is cleaned takes time and takes money and takes a great deal of technology.

We do that, and it is not quick, but if in the interim we found ground water that is contaminated that is being used for drinking water, we step in immediately providing alternate drinking water either by connection through mains or by potable water being bottled and transferred in if that is necessary, but to say that we should stop taking immediate actions in order to do long-term actions is inappropriate.

The approach we are using is consistent with the report published last year by the Office of Technology Assessment that was provided to your committee. It is a good report, and it is precisely what EPA is doing, and it is a very cost-effective, safe, sound way to proceed providing good protection to everyone as quickly as possible but not forgetting to come back later and do the thorough job that everyone expects our agency to do.

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Mr. FLORIO. Let me just respectfully disagree with your whole analysis, because quite frankly what is happening is we are making this a third category. This third category is separating emergency response capability, which no one argues that you should not go forward with. Something is burning, it is exploding, it is leaking into a drinking water well, certainly you should be responding and hopefuliy you are.

Those sites, by the way, in many instances, never make their way on to the National Priorities List because you are remediating the problem there. The problem is the National Priorities List sites which you, your agency, has gone to the trouble of evaluating in accordance with a very sophisticated computer model to say that they all are imminent and substantial hazards. This is not burning, this is something that has taken you some time to evaluate. You categorized those 850 sites in the country out of 20,000 or 300,000, depending on who you believe, as emergency sites, and yet you are then taking a position that there are two classifications within those immediate response action sites that dictate quicker action in some than in others, and I just have some difficult problems with that.

I am hopeful that the provisions that we are putting into the new law will be able to make it clear that there really is no authority for putting some of the National Priorities List sites on the back burner, because that is effectively what has been happening, that we are only talking about a relatively small number in the whole universe of sites. Those sites ought to be getting equal treatment, and we should not be making distinctions between ones that are 200 on the list versus ones that are 350 on the list, because there really is not a legitimate reasoning for the ranking system that you have.

Let me just ask——

Mr. CONSTANTELOS. One small comment.

When we produce our annual plan for which sites we are going to proceed on and work on this coming year, we do it with our States.

Many of our States have public comment periods independent of the Federal Government to have the public involved in which sites should be done and which priority. We do not do this unilaterally. This is a cooperative effort with our States. Even if the Federal Government is taking the lead in implementing the program, the States have a tremendous say on which ones we do first, and when we do them first we do them right, and we do them all the way, but we always take care of the most dangerous part first.

Mr. FLORIO. When you say you do them all the way, we have not had any done all the way. I mean we have had 5 years——

Mr. CONSTANTELOS. Some are done. Some we are just monitoring to be sure that there is no other thing there. This is not—this is a 2-year evaluation process. You do not——

Mr. FLORIO. But you say you are monitoring sites that you have designated as National Priorities List sites.

Mr. CONSTANTELOS. No; we have cleaned everything off of the sites that seem to present the problem. We are monitoring now to be sure that from some accident something was missed.

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Mr. FLORIO. There is obviously a difference of opinion, but I do not know how one can say one is monitoring and evaluating but not having cleaned up a site, and there is a small percentage of the sites that you have designated as imminent and substantial hazards to people's health and to the environment.

Let me yield at this point to the gentleman from Minnesota.

Mr. SIKORSKI. I thank the Chairman, and I thank all of you. I especially want to thank Mr. Schafer. You have come a long way from Washington and the Pentagon, and I know Senator Novack who represents New Brighton in this area is appreciative, and Representative Knuth is appreciative, and City Manager Childs, from a city in my district, St. Anthony. I am appreciative, too, and we do not want to let you think that we are not paying attention to you, so I would like to focus a little attention on the Department's response to the communities affected.

I spent a good part of late last night and early this morning looking at the history of correspondence between your agency, the Pollution Control Agency in Minnesota, the Environmental Protection Agency, the cities, Congressman Vento's office, and I came to the conclusion or at least was reminded of the little old thing, "We met the enemy, and the enemy is us."

Darby Nelson reaffirmed this when he said earlier that if the Soviets had done this, Cap Weinberger would be there, and we would have billions.

I am concerned that you spoke nicely about what is going on and positively about the future. You seemed to end your comments with an offer of some better relationship in the form of some agreement that can take care of this problem. Were my ears deceiving me, or do you have some proposal that we can all feel better about?

Mr. SCHAFER. I believe I do, sir. I believe that one of the frustrating parts about this whole business and probably the most difficult to tolerate are the simple failures to communicate. I think the file that you read last night must have been disgusting.

That has got to stop. We have got to get on the same wavelength. The Department of Defense is not interested in wearing a black hat in this thing. There are some constraints on what we can do and what kind of degrees of liability we can accept willy-nilly, and there are significant and honest differences of opinion about where these other potential sources for groundwater contamination are.

Mr. SIKORSKI. I appreciate that. What bothers me is that we have spent several millions of dollars. The average on a toxic waste site nationwide is $6 million; when there is contaminated groundwater, it is $12 million, and we are fast approaching this, if we have not already exceeded it in this case, if you total up with EPA, PCA, and you and what the cities have done, and yet we are not even close to the kind of action that everyone agrees needs to take place.

Maybe this is unique. I sense that it is not, based on what I have seen, I mean nationwide, and my question then is when are we going to get down to real money for the real problem and not to kind of toss the liability back and forth?

We know the MPCA is not responsible. We know the EPA is not responsible. We know St. Anthony, New Brighton, and Arden Hills are not responsible for this.

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You said in one letter that there was a Skibas gas station sitting out some place, yet gasoline does not even relate to TCE, and I think the PCA shot each one of those down with pretty sizable firepower. Then, you raised in your comment today the remedial action plan was on line and was going and you need to make some adjustments. The EPA has replied with a scathing, several point criticism, I guess that ends it. That is bothersome, too. It all seems to be under the guise of we do not want the hot potato. I can appreciate that, but I am going to be madder than I am and so is Bruce Vento and other people if we are spending a lot of taxpayers' money to toss a hot potato back and forth when it is going to come home on your plate.

Mr. SCHAFER. If I may respond, the hot potato is mine. Our experience is that where groundwater is contaminated and extensive and complicated hydrogeology is involved that the total cost of cleanup will typically run in the range of $30 million, and in that context the amount spent to date in studies are not especially excessive. And there are a bunch of assumptions there.

There are a number of things that we can do to improve this situation, and my point is simply to say that one of the ways to simply round those things off and focus them is to enter into a written agreement with the EPA region and the State as to what wants to be done, how it wants to get done, and when it wants to get done.

I personally am going to have a national problem if I run into much of this in every district of every State across the Nation, because that creates a scheduling problem back at home, you see, for budget.

Mr. SIKORSKI. Well, we have got you here now and——

Mr. SCHAFER. That is right, and I am glad to be here, too.

Mr. SIKORSKI. I am Polish and German and will hang on, and I was taught by my chairman of my subcommittee and my chairman of full committee to hang on with everything I can, and I sense you want to help. You are pledging your full support for some resolution of this issue in cooperation with the EPA and the PCA, because I can ask them a whole set of questions, and they will dump all over you, but I do not want to live in the past. I want to live from December 20, or whatever—what day is this?

Mr. SCHAFER. Twentieth.

Mr. SIKORSKI. I want to begin today at 1:20 central standard time and move ahead.

Mr. FLORIO. Will the gentleman yield on that?

Mr. SIKORSKI. Yes.

Mr. FLORIO. Let me ask you, would you not be in a better position if the changes in the law that we are contemplating go into the law, where it would be clear and unequivocal that EPA is the lead agency in formulating the plan to address problems on Federal facilities and everyone had this interaction? I happen to believe that that is the law now, but the interpretations have not been followed through in that way. The bill that we are talking about will make EPA the lead agency. EPA would be charged with the responsibility of consulting with State governors and people of that sort, and of course you would be involved in the process, but rather than have this negotiation that is taking place with everyone at-

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tempting to justify their own position, you would have input but EPA would have final signoff capability. Would that not solve your problem in some respects?

Mr. SCHAFER. I do not object in principle to that. It depends upon just how far it is taken. If there is some concept that all of the technical uncertainty and scientific uncertainty and that sort of thing is going to go away just by the wave of a magic wand, it will not. There will be negotiations and there will be differences of opinion. EPA is not magic. They are wonderful, but they are not magic.

Mr. FLORIO. Is that any different than their authority with a private party? The problems are equally as complicated with private parties. The remedies are equally as sophisticated, yet EPA is in a position to ultimately have the final word. We would like them to apply the final word a little quicker than that, but they have the final word.

The difficulty with the Federal facility is, under the current interpretation of law, there is not that degree of finality as to who has the ultimate authority to say, "This is the cleanup mode," or "This is the cleanup mode."

Mr. SCHAFER. There are dispute resolution procedures available to industry that are not available to us and vice versa. And in the end that is an unprofitable line of discussion.

The point I believe is that we have got to get together and clean these things up. We have got to find a way to arbitrate, if you will, the technical differences so that we do not spend all of our time litigating or negotiating. We have got to spend our time instead aerating and cleaning.

The episode here today with respect to the Twin Cities Army Ammunition Plant is, in my experience in DOD, somewhat unique. I would hope it does not form the basis for how we feel about the proper relationship between States and EPA and DOD.

This is one of two situations that I know of where we have significant civilian contributors to the groundwater contamination that preclude us from stepping forward in the way that we have in many other areas. Even so, there are ways and means here to step forward. For instance, we are willing to agree in writing to EPA that if EPA under the Superfund will address whatever the civilian problem is, we will commit to standing up and paying our part upon the end of the technical determination.

Mr. FLORIO. Let us ask the EPA representative what his thoughts are as to that.

Mr. SCHAFER. If I might, just one additional point?

We have done that in many other situations. We are not trying to stonewall this in this situation. You must understand that there really are, despite the 345 disposable other potentially responsible parties out there, there are still five others that are quite significant.

It is one thing to say that we may be the primary source, but it is another thing to say that we are the sole source of this contamination and should accept all of this liability. We are not trying to stonewall it.

Mr. CONSTANTELOS. OK. We have talked about setting up a specific agreement with the Army as well as the State of Minnesota

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on this particular facility. The reason we think it is important is because it is a very, very complicated pollution issue, as well as a tricky, I think, contribution issue as to who is responsible for how much.

Our problem has been relating the onbase activity to the offsite activity that the MPCA is trying to accomplish.

I think this kind of agreement which we would do with public comment prior to entering it could get us where we want to go effectively. I cannot right now comment on how we would deal with the liability issue. That is a little trickier for me, and I do not think I want to comment on that off the top of my head.

I am used, I will admit, to dealing with private parties normally, and I am having a little more trouble here understanding how I would deal with this one, so I would really not try to, just off the top of my head, answer it.

But I think the agreement that the Army has talked about today is one that we very much have wanted, one with the MPCA and the citizens of the State, so that we all know where this is going, when it will be completed.

Mr. FLORIO. If the gentleman will just yield for an observation, I do not have any difficulty with that. My only problem is that I sat in a hearing very much like this 4 years ago listening to the Department of Defense people come and express their good intentions, and there really is not too terribly much difference. But some of these hard questions are going to have to be addressed. For example, you, between the two of you, can agree to whatever it is you decide to agree on, agree on the allocation costs out of the Department of Defense budget, and then unless you deal with the questions of liability from whomever else is going to contribute, whether you are going to use Superfund moneys for those portions, nothing is going to be cleaned up, and it will be sitting here for a long period of time allowing you to make the determination as to how liability is going to be assessed so that you can use money either directly out of the fund in anticipation of getting it back from someone else or to continue in negotiations with someone else to get the money for the total package of the cleanup activity.

I mean you can understand the frustration that comes because nothing is being cleaned up.

Mr. SIKORSKI. It is a complicated hydrological problem, and it involves millions of dollars and some technological apparatus and a whole bunch of analyses, but the end result is you have got a 4-year-old girl who is turning on the faucet in St. Anthony, whose immune system is not as sophisticated as an adult's, who is drinking some water that may well be contaminated, and it may well have been contaminated by her own Government before she ever was born, and that is the basis of the concern.

I think it is not unfair to say the DOD has stonewalled today, has expended money in order to push liability elsewhere, and I would hope that the PCA and the EPA can expect some greater understanding of the problem and cooperation that they have received to date, because we are going to demand it.

The city of St. Anthony has expended some money; the city of New Brighton has spent millions of dollars, and they are out there. But it gets down to that girl turning on that faucet.

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Mr. SCHAFER. With respect, sir, this will not be the only hearing at which I sit here and sweat.

Mr. SIKORSKI. I can assure you that.

Mr. SCHAFER. Nor will it be the only forum in which similar topics——

Mr. SIKORSKI. You have got a lot of money, Mr. Schafer.

Mr. SCHAFER. We have some money.

Mr. SIKORSKI. Yes, and you can have more. You are in a lot better position to request money than EPA is.

Mr. SCHAFER. I share your concern. The problem is not just here. The problem is going to be again and again nationwide. We have got to find answers to these things.

Part of the problem, the word that you did not use, and since you did not I suppose I can afford to, you did not include "bureaucratic practice." This whole thing is not so simple that you can walk out there and say, "I have this absolute authority. I can do this thing."

There are competing interests. There are large amounts of money involved, and there are constraints upon what we as public servants can decide about what liabilities to accept, depending upon the evidence in front of us, and that is what we are faced with. It is not a lack of intent.

I would respectfully disagree that no progress has been made in 4 years on the face of it. I am here. That is progress.

The budgets that we have for these cleanups are progress. The pending legislation that we have before us is progress. The Department of Defense has cleaned up 126 sites. We do have many studies going on. We will fix the Twin Cities Army Ammunition Plant. We cannot stand this kind of reputation for uncaring. The quality of environment is part of the national trust that the Department of Defense is here to defend, and we would not have you feel otherwise.

Mr. SIKORSKI. The proof is in the pudding at this Christmas time, and you have got a few weeks to work out something that can allow someone like me to buy into what is evidently a sincere effort to get this thing moving, and I want to commend you for that expression, and I want to encourage you to back it up.

Mr. SCHAFER. I will, sir.

Mr. SIKORSKI. Thank you.

Mr. FLORIO. Let me just conclude by saying that I suppose it is what prompts some of the criticism that I have had against EPA over the last couple of years. I would like to see DOD get out of that whole business. They certainly have priority goals that they are striving for that relate to national defense, and my concern is, in the good faith ways, environmental protection is not their highest priority. They have mixed goals.

Likewise I suspect if we talk about private responsibilities, private responsible parties, people who are out there, hopefully the vast majority of them are not primarily concerned about environmental safety. They are certainly not out trying to hurt people purposely, but they have mixed goals as well.

EPA is not supposed to have mixed goals. EPA stands for environmental protection, and therefore I want to provide EPA with as much responsibility, as much authority, and as much in terms of resources that they need. The difficulty is that not everybody in

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Washington wants to provide EPA with the resources that they need. The Environmental Protection Agency budget is the equivalent in purchasing power of the budget of the agency 10 years ago, even though the responsibilities have increasingly come on line in very dramatic ways. But I am hopeful to be someone who can assist the agency in wanting to be more aggressive and wanting to take responsibilities in a focused, coordinated way so as to get rid of the opportunities for the types of things that I think some local people have experienced.

This question about one agency spending money to show that they are not responsible, another agency spending money to show that they are responsible: That is reinforcing the impression that the American people have in some instances that arms of the same government are working at cross-purposes. That is not conducive to confidence in our system, and it is certainly not anything that we want to reinforce.

I want to express my appreciation to this panel of witnesses, to pledge my continued cooperation—I know I speak for Mr. Sikorski—in trying to address the local problem, but also trying to set a framework that will allow us not to have to deal with problems on a town by town by town basis, but rather to set a statutory framework, a regulatory scheme that will allow things to be done before the fact rather than after the fact, so we have to take to field hearings to cause some people some amount of discomfort. We would rather not have people in a position where they would feel the need to be put at some degree of discomfort.

So I appreciate the participation of this panel. I want to express my appreciation to Mr. Sikorski and Mr. Vento for calling my attention to the local problems so that in a sense we can use that as case studies to give us the evidence to assist us in building the strength and building the force for making modifications in the law so as to be able to address them on a nationwide basis.

I would thank all in attendance. I would thank all who are responsible for the accommodations and wish everyone a very happy holiday season, and if we have no further business, the committee stands adjourned.

[Whereupon, at 1:35 p.m., the subcommittee was adjourned.]

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